

Submitter : Ms. Lauren Stephenson Date & Time: 09/19/2004 06:09:19

Organization : Northeastern University Student Athletic Trainers

Category : Government

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Lauren Stephenson  
150 Huntington Ave apt # SA4  
Boston MA, 02115

September 19, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

? There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY ?incident to? service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

? Athletic trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor?s or master?s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master?s degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

? CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.

? Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who

**CMS-1429-P-2000**

becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Lauren Stephenson

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Dear Sir:

The proposed changes in the way that Medicare pays for chemotherapy drugs administered in a doctor's office, going to the ASP plus 6 per cent, combined with the decrease in reimbursement for the administration of chemotherapy will have a significant impact on our ability to provide cancer care for Medicare beneficiaries. Our offices provide cancer care for many Medicare beneficiaries in Connecticut. We have reviewed the drug reimbursement and find that in a number of instances, we will not be able to purchase the drugs for the amount we will be reimbursed. Additionally, Medicare only pays 80 per cent of the approved amount. We have to recover the remaining 20 per cent from the patient's secondary insurer. There is often a delay of 3 or more months in obtaining this payment, and our office has to spend a significant amount of time and effort, with additional overhead expense, to obtain this 20 per cent. This overhead is not compensated, nor is the delay in obtaining payment from the secondary insurer. We have to pay interest to our drug supplier to cover the delay in reimbursement. In some instances, we are unable to recover any of this 20 per cent.

Additionally, Medicare is planning to decrease our payments for chemotherapy administration. This comes at a time when our malpractice insurance has doubled over the past 5 years, and when our Oncology nurses and physician's assistants, are receiving higher compensation.

If no changes are made, we will be in the position in which we will likely have to decline to treat new Medicare patients. This will be a tremendous disservice to Medicare beneficiaries. We know of many of our colleagues throughout the country who will make similar decisions. We wish to continue to provide cancer care to Medicare beneficiaries, and hope that CMS will change the proposed reimbursement for chemotherapy drugs and the technical component of chemotherapy services to allow us to continue caring for Medicare beneficiaries in the same manner that we care for patients covered by HMO's, indemnity plans, and other health insurance.

Sincerely yours,

Peter D. Byeff, MD  
Kenneth J. Smith, MD

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

September 18, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

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During the decision-making process, please consider the following:

? Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient. ? There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

? To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide ?incident to? services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide ?incident to? care in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

? CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

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In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely, Gail P. Browning, MEd, ATC, CSCS, 14951 W. Hwy 100, Bunnell, FL 32110. 904-568-5772

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Santa Cruz County needs to have reimbursement at the urban rate. I am 73 years old & have been on Medicare since age 65 & have never been any kind of a problem to my physicians. In 2000 I had to change my primary physician. I telephoned every internist & family practitioner in my County & was told they had no vacancy for a medicare patient & did not keep a waiting list. Although I had very serious health problems, I went 5 months without a primary physician. Most of my illnesses were entirely untreated. I worked with a physicians service & my supplement to medicare insurance company to get a physician - they totally failed too. The President of the health insurance company got me a physician when I wrote to him suggesting that his company seemed to be committing fraud if they were collecting money for insurance but couldn't provide an approved physician (the approved list included every physician in the County). The new physician was fine, but after about a year he left this county. Again I searched by calling every physicians office. I came up with one possibility who was new here, but already not well recommended. After a time, a replacement came to my former physician's office and he agreed to accept me. After about a year, guess what!! You bet, he left the County of Santa Cruz too. Yes, I do have a new physician. She is a family practitioner, a nice lady, and is not as familiar with geriatric chronic illnesses as I need. My care is grossly inadequate and I am afraid of the consequences.

Please change the reimbursement rate formula for Santa Cruz. This is a very expensive place to live (not as much for me, who bought my house 35 years ago & rent out a room & want to live out my life here), but it is for younger people. You should know too that Santa Cruz County seniors cannot usually go to a neighboring county for medical care because access by car is long, difficult & dangerous and public transportation is almost impossible to do in one day for many of us. Hospitalization in an out of county physician's hospital means isolation from your friends & all the people who watch out for you. I think there isn't much we can do except to depend on you to change the rates.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

The CMS-1429-P would create all kinds of difficulties for women with mastectomies. The need for new prostheses and mastectomy bras is an ongoing process. It is ridiculous for women to have to pay for a visit to their physician when needing a prescription. The physicians determine how long women need to return for check-up after breast cancer. Many women are housebound and cannot get to their physician so readily. THE CMS-1429-P SHOULD UNDER NO CIRCUMSTANCE BE PASSED!!!

I am a breast cancer survivor with bi-lateral mastectomies and wear prostheses and mastectomy bras and was pronounced cancer free at the time of my surgery. After one year of follow-ups, I am no longer required to see anyone. I am also a provider of all after-cancer treatment needs and know how difficult it is for women to get in to their physician at the proper time. PLEASE DO NOT LET THIS DOCKET PASS!!

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am an Athletic Training Student at an accredited program, planning on becoming a PT. The only argument I am able to make is from my own experience. Most people in other health-related professions, simply do not understand, and therefore underrate the Athletic Training profession. The care given by an Athletic Trainer, including prevention AND rehabilitation is just as good as that of a Physical Therapist. Having worked in two different PT clinics which also employ ATC's, other than the fact that the ATC was not allowed to perform patient evaluations, I could not tell the differenc between who was what. After what I have witnessed in my program alone, I know that when I am a practicing Physical Therapist, and on my journey to that point, I will continue to fight for my friends the ATC's who will continually be depreciated until this fight is won.

Sincerely,  
Emily Steele  
PROUD Athletic Training Student  
University of North Carolina at Wilmington

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY TECHNICAL REVISIONS

Clayton Strobidge  
HS 436

This letter is written in regards to a recent proposal by your organization, The Centers for Medicare and Medicaid Services, involving athletic trainers. The changes your organization is proposing would prevent reimbursement by Medicare or Medicaid for rehabilitative services provided by a certified athletic trainer under the supervision of a physician, in a clinical setting. Not only will this limit the physician's ability to choose an appropriate health care provider for their patients, it will also interfere with the patient's ability to receive competent, professional quality healthcare from individuals trained and specialized in this area.

Certified athletic trainers are qualified to perform a variety of rehabilitative services within a wide array of settings, both clinical and non-clinical. They are trained extensively in numerous on and off-the-field evaluative techniques which provide them with a strong basis for providing excellent therapeutic and rehabilitative services.

The clinical education experiences of an athletic trainer are extensive and are in some cases much more involved than those of Physical Therapy Assistants or Occupational Therapy Assistants, who under your proposed changes would still be covered by Medicare and Medicaid to perform services under a physician. In fact, according to the Federal Government, preparation for certification as an athletic trainer is equivalent to that of a physical therapist, and the rating for level of education, preparation required and duties performed by an athletic trainer according to the United States Department of Labor is higher than that of Occupational Therapists and is significantly higher than the rating for Occupational Therapy Assistants and Physical Therapy Assistants. In addition, athletic training students are often required to take many of the same classes as are physical therapy students, and are trained specifically in programs in areas of pathology of injuries and illnesses, recognition, evaluation and assessment of injuries, treatment, rehabilitation, and reconditioning, therapeutic modalities, and therapeutic exercise.

The certification process for an athletic trainer allows them to work in a variety of settings including in a physician's office providing therapy for patients. An athletic trainer who is certified by the National Athletic Trainers Association (NATA) is a highly qualified paramedical professional, educated and experienced in dealing with injuries. Candidates for certification are required to have an extensive background of both formal academic preparation and supervised practical experience in a clinical setting.

It is because of these above mentioned reasons that I am asking you to reconsider your proposal to prohibit reimbursement by Medicare and Medicaid for services provided by a certified athletic trainer. It is in the best interests of the patients across the United States seeking qualified individuals to aid in their healthcare and rehabilitation that you do so. We as healthcare professionals should seek to further cooperate to achieve our goals of helping the people who seek our aid.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

My name is Adam Lipman and I am a 5th year student of Physical Therapy at Northeastern University. I have worked through Northeastern's Co-op program in various physical therapy atmospheres including outpatient, inpatient and acute rehab facilities.

Therapy-Incident To, I would like to comment on the August 5 proposed rule on "Revisions to of your letter Payment Policies Under the Physicians Fee Schedule for Calender Year 2005." I feel that having a licensed Physical Therapist is a necessity when prescribing physical therapy services. Without the proper knowledge, the proper training and the overall experience of a licensed Physical Therapist to administer these services, Doctor's and insurance agencies risk malpractice and also improper instruction to their patients. I support the CMS's proposed requirement that PT's working in physician offices be graduates from accredited professional Physical Therapy Programs. Licensure must be the standard for these PT's because without that license, you can not be sure the PT's and PTA's are properly trained to administer PT services.

PT's and PTA's are trained to perform certain services, which is why they are PT's and PTA's. If someone was to just perform one of these services without the knowledge of a Physical Therapist, they could be compared to someone attempting to fix plumbing without the proper training of a licensed plumber. The reason people are licensed is to prevent harm and malpractice when it comes to patient care. This is why we as Physical Therapy students go to college, we go to learn the specific techniques and services that a licensed Physical Therapist is skilled in. Without becoming skilled in our area of expertise we would not be capable of understanding pathologies, injuries, and overall health of patients.

In closing I bring up Section 1862(a) of the Social Security Act. It states that for physicians to bill "incident to" for PT services, those services must meet the same requirements for outpatient therapy in all settings. And in turn must be performed by graduates of accredited PT programs which includes licensure.

I thank you for your consideration of my comments on this proposed bill, and hopefully you can understand my concern as a student of Physical Therapy. Thank you.

Sincerely,

Adam Lipman

Submitter : Mrs. Ronda Horton Date & Time: 09/19/2004 08:09:57

Organization : Florida State Massage Therapy Association

Category : Other Health Care Professional

Issue Areas/Comments

**GENERAL**

GENERAL

We beg you to NOT pass this policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a physician's prescription or under their supervision.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Please reconsider your designation of my county, Santa Cruz, as "rural." Everyone who lives here knows how high living expenses are in this area. I've needed a great deal of medical care lately and due to lack of specialists, I've often had to travel over the mountains to doctors in the Santa Clara area. This is a great hardship on me, in that long periods of sitting are very difficult, and often I have to hire a driver so that I can lie in the backseat of the car during the drive. Please reconsider, based on reality of living expenses here. Thank you, Helen Hunter.

Submitter : Cheryl Hoyt Date & Time: 09/19/2004 09:09:08

Organization : Cheryl's Health Boutique

Category : Individual

**Issue Areas/Comments**

**GENERAL**

GENERAL

Mastectomy products should be excluded from face to face prescription requirements. The effects of a mastectomy are permanent; therefore these products are necessary throughout the life of the patient. Medicare already has parameters in place for the dispensation of these items. These parameters should be sufficient. The face to face prescription requirements would place an undue burden on all affected medicare beneficiaries, physicians, suppliers and Medicare as well. The face to face prescription requirement will require the patient the inconvenience of a visit to the physician, the physician's time for the visit AND MEDICARE'S PAYMENT FOR THE VISIT. At a time when Medicare is looking for ways to cut unnecessary costs, this new provision only adds to their costs.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Those on medicare cannot find a doctor in Santa Cruz County because the reimbursement is so low. I hear constantly about the need to attract doctors to practice in smaller population areas and yet this reimbursement schedule discourages them from doing so. Please stop depriving us of our doctors. It is relatively inexpensive to be realistic about the expenses of doctors in SC County. How else will we attract people who have so many other options. Please be realistic.

Submitter : Mrs. Sonia Kelso Date & Time: 09/19/2004 10:09:23

Organization : Mrs. Sonia Kelso

Category : Individual

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

It would not help the patients to deny payment to highly educated Athletic Trainers in rehabilitation services. These individuals have trained for years in the medical field and serve many purposes in the clinical setting. They are a great asset to many Physical Therapists. I would strongly encourage you to not adopt this provision to the Medicare act.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

As an Athletic Training student at Rowan University, the training that I am receiving in the field of rehabilitation and physical therapy are sufficient to be able to practice in any environment. My classmates, supervisors and I deal with injured athletes on a daily basis. We are the first ones to evaluate an injury when one is presented and also the ones to see the athletes progress from day-to-day in their rehabilitation protocols. Not only is our hands-on experience invaluable, but the level of trust that we maintain with our athletes is proof in itself that there are countless benefits, both physically and emotionally for the recovering athlete. As we all know, athletes are not the only individuals to have injuries. There is no reason why Athletic Trainers should not be allowed to provide services to the general public since we are proficient in physical therapy and rehabilitation.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

File code: CMS-1429-P

Section: II Provisions of the Proposed Regulation Related to Physician Fee Schedule. D. Coding Issues. 6. Venous Mapping for Hemodialysis. Our Vascular Lab has been performing pre-op AVF mapping of both arteries and veins for many years. The AVF placement rate is about 90% within the local group of Nephrologists and Surgeons. I applaud your efforts to create a G-code to be used for assessment of available vessels prior to surgery. Since both arterial and venous systems are essential for a successful fistula it would seem appropriate to change 'Venous' mapping to 'Vessel' mapping. This would clarify that both systems should be examined. Also, please consider replacing 'graft' with 'fistula' in the G-code description. Graft could confuse the issue. I am a Registered Vascular Technologist (RVT) in a vascular lab and just recently we have gained approval for use of ICD-9 585 code with both arterial codes, 93930 or 93931, and venous code, 93970 or 93971, to do pre-op AVF mapping. Most mapping of this type is done in Diagnostic vascular labs, Radiology departments and mobile diagnostic units with reports sent to both the surgeon and nephrologist. Limiting reimbursement exclusively to the surgeon would hamper the ability of the entities now providing this service to continue. That is clearly not your intent. As we have seen locally, pre-op AVF mapping works.

Thank You for taking this important step to improve the care of hemodialysis patients.  
Diane Seagroves RVT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please take note with the attached letter- Thank you.

Attachment #2015

Kevin Lagrange, ATC  
2560 Centergate Drive, Apt 104  
Miramar, FL 33025

Sept. 19, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Kevin Lagrange, ATC  
2560 Centergate Drive, Apt. 104  
Miramar, FL 33025

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached letter and take great consideration when reading. Thank you-

Attachment #2016

Catharine Waterhouse, ATC  
2560 Centergate Drive, Apt 104  
Miramar, FL 33025

Sept. 19, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
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Sincerely,

Catharine Waterhouse, ATC  
2560 Centergate Drive, Apt. 104  
Miramar, FL 33025

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I live in Santa Cruz County, California and I am outraged that the department of HHS has not brought our county into the 20th century, let alone the 21st century. Our county has an extremely high cost of living where the average selling price of a single family home is over \$600k. Yet, we are still listed as a "Rural" county and therefore get lower Medicare reimbursement rates.

It appears that our rates will become 25 percent lower than our adjacent Santa Clara County, if the proposed policy change goes into effect.

This is intolerable. Good physicians cannot survive in our county and will go next door to Santa Clara County, where housing costs are actually less than our Santa Cruz county. I have spoken to many doctors in our county and they find it almost impossible to recruit new doctors due to this inequity.

I strongly urge you to reverse this trend by changing the designation of Santa Cruz county from rural to urban. If you don't, in a few years there will be an extreme and permanent shortage of qualified doctors practicing in Santa Cruz County. Please change the rules so that there is a minimum of disparity between adjacent counties. Anywhere. Not just between Santa Clara and Santa Cruz Counties. Fix our problem and all others like it.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

see attached comments

Attachment #2018

Via Electronic Mail -- <http://www.cms.hhs.gov/regulations/ecomments>

Randy P. Cohen ATC, PT  
Assistant Director of Athletics for Medical  
Services  
University of Arizona  
McKale N110  
Tucson, AZ 85721-0096

September 9, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient. This has been happening for years with good results.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY “incident to” service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. *It is imperative that*

*physicians continue to make decisions in the best interests of the patients.*

- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- We already have a shortage of qualified credentialed allied health providers. This is especially true in rural areas. If a physician is no longer allowed to utilize qualified healthcare worker to help them this will result in delayed care for the patients either by causing the patient to go elsewhere for care or utilizing more of the physicians time. This will also increase the cost of the care.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor’s or master’s degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master’s degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).
- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide “incident to” outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide “incident to” outpatient therapy in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. **As a physical therapist I believe this is inappropriate to limit care.**
- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional

group who would seek to establish themselves as the sole provider of therapy services.

- Athletic trainers are employed by almost every U.S. college with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is incorrect
- If this change is made it could limit the number of physicians who accept Medicare patients.

**As an athletic trainer and a physical therapist I am uniquely qualified to state that athletic trainers are qualified well-educated healthcare providers that should not be limited by these proposed changes.**

**Please continue to all the states and the physicians the ability to decide who is appropriate to give good quality care.**

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation will limit good efficient healthcare to people in a country that needs more quality efficient healthcare.

Sincerely,

Randy P. Cohen ATC, PT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

MASTECTOMY PRODUCTS SHOULD BE EXCLUDED FROM THE FACE TO FACE PRESCRIPTION REQUIREMENTS. THE EFFECTS OF A MASTECTOMY ARE PERMANENT. BASED ON THAT FACT, MASTECTOMY PRODUCTS ARE NECESSARY THRUOUT THE LIFE OF THE RECEIPTENT. MEDICARE ALREADY HAS PARAMETERS IN PLACE FOR THE DISPENSATION OF THESE ITEMS. THESE PARAMETERS SHOULD BE SUFFICIENT. THE FACE TO FACE PRESCRIPTION REQUIREMENT WOULD PLACE AN UNDUE BURDEN ON ALL AFFECTED MEDICARE BENEFICIARIES, PHYSICIANS, SUPPLIERS AND MEDICARE AS WELL. THE FACT TO FACE PRESCRIPTION REQUIREMENT WILL REQUIRE THE RECIPIENT THE INCONVENIENCE OF A VISIT TO THE PHYSICIAN, THE PHYSICIAN'S TIME FOR THE VISIT AND MEDICARE'S PAYMENT FOR THE VISIT.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Currently pharmacists are not allowed to bill under part B for services offered, specifically B-12 injections and allergy shots. We have pharmacy patients who would like to have their injections at our pharmacy which is more convenient to them than going to their physician's office, but they can't afford our fee. We would like to be able to bill medicare for these services as physicians do.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Please see attached file.



## ATHLETIC TRAINING

University of Tennessee at Chattanooga  
McKenzie Arena Dept. 3503  
615 McCallie Avenue  
Chattanooga, TN 37403-2598  
PHONE: (423) 425-4275 FAX: (423) 425-2160  
www.gomocs.com

Attachment #2021  
September 19, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012  
Re: Therapy – Incident To

Dear Sir/Madam:

I am an Orthopedic Technologist-Certified (OTC) and Certified Athletic Trainer (ATC) writing to express my concern over the recent proposal that would limit providers of “Therapy-incident to” services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. It would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- “Incident to” has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- Athletic trainers are highly educated. ALL certified or licensed athletic trainers **must have a bachelor’s or master’s degree** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master’s degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).
- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide “incident to” outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide “incident to” outpatient therapy in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

David J. Heath, OTC, ATC, LAT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

OTHER - INCIDENT TO

I hold a graduate degree in athletic training and I practiced as a clinical Athletic Trainer at the college level for ~6 years. I then went to Physical Therapy school and have been a Physical Therapist for the last 15 years. I continue to be clinical faculty and an adjunct faculty member in a local small college athletic training education program.

I am very much against the 'incident to' provision that allows physicians to hire an athletic trainer use then to bill for services done in a physician office that would other wise have to be done by a licensed physical therapist. The reimbursement to the physician for the services of the athletic trainer compared to what the physician has to pay the athletic trainer is the only reason that physicians are interested in this. Physicians Make a lot of money! It is worse then referring to an employed physical therapist as at least the PT is providing a level of care that is recognized by the medical community. The level of care given by an ATC in a MD's office is not of the same level as what could be provided by a PT. Having both credentials I am able to make the comparrison of the level of skilled treatment provided by both professions and it is clear that PTs do not belong on atheltic event sidelines as they have minimal training in emergency care or mechanics of sports. ATC don't belong in a Doctors office treating older people as they have no training in working with the elderly and little if any training in pathology, pharmacology, and the rehabilitation of people with multisystem disorders often seen in the elderly! A usually safe but minually exceptable level of service can be provided by the ATC while the physician is making a substantial amount of money in a referral for profit situation. Referral out of the physician's office to a Physical Therapist reduces the referral for profit insentive and marked increases the level of skill provided to the medicare patient.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

All Physical Therapy should be billed and provided by a Physical Therapist. If it is not, it cannot be considered Physical Therapy. For the safety of the public, specific modalities and procedures have been reserved for administration by Physical Therapists.

**THERAPY STANDARDS AND REQUIREMENTS**

By definition, a Physical Therapist is an individual who has successfully completed a course of study, accredited by a governing body. Adherence to legal and ethical standards is expected for the safety and quality of treatment. When an individual does not meet these criteria, public safety and wise use of health care resources can never be ensured.

I am asking for support of standards and requirements outlined for administration of all Physical Therapy rendered.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-2024-Attach-3.doc

CMS-1429-P-2024-Attach-1.doc

CMS-1429-P-2024-Attach-2.doc

Al Green  
Clinical Services Coordinator  
Kessler Rehabilitation Centers  
600 El Paseo Dr.  
Lakeland, FL 33805

September 17, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this will eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients, increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program, been utilized by physicians to allow others, under the physicians supervision, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered.
- There have never been any limitations or restrictions placed upon the physician in terms of who they can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under their care, Medicare and private payers have always relied upon the professional judgment of the physician to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide their patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals, it is likely the patient will suffer delays in health care, greater cost and a lack of access to immediate treatment.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens this summer to provide these services to our top athletes. For CMS to even suggest athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This recommendation is a health care access deterrent.

Sincerely,

Al Green, ATC

Al Green  
Clinical Services Coordinator  
Kessler Rehabilitation Centers  
600 El Paseo Dr.  
Lakeland, FL 33805

September 17, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

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- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide their patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals, it is likely the patient will suffer delays in health care, greater cost and a lack of access to immediate treatment.
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- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

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- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This recommendation is a health care access deterrent.

Sincerely,

Al Green, ATC

Al Green  
Clinical Services Coordinator  
Kessler Rehabilitation Centers  
600 El Paseo Dr.  
Lakeland, FL 33805

September 17, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this will eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients, increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program, been utilized by physicians to allow others, under the physicians supervision, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered.
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- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This recommendation is a health care access deterrent.

Sincerely,

Al Green, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See attached file

Sue Stanley-Green  
Athletic Training Program Director  
Florida Southern College  
Lakeland, FL 33801

September 19, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this will eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients, increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program, been utilized by physicians to allow others, under the physicians supervision, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered.
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- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide their patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals, it is likely the patient will suffer delays in health care, greater cost and a lack of access to immediate treatment.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens this summer to provide these services to our top athletes. For CMS to even suggest athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This recommendation is a health care access deterrent.

Sincerely,

Sue Stanley-Green, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

When you receive a medical service you should be able to obtain this from an individual that is trained in that subject, not an office assistant. A physical therapist has seven to eight years of education and should be able to bring a vast evidence based program to your people. The profession has evolved in the 27 years that I have practiced and unless a physician is trained in physical medicine they will not understand our basis for treatment. The profession has moved on from the days of a bachelor degree when we took orders and did heat, ultrasound, and massage. A real therapist will take the time to explain the anatomy of the injury and expectations of treatment. As a patient would you trust information from an office assistant or from me if I were to explain what shoulder impingement is? Before you make any decisions think, where would you go for physical therapy?

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file.

Mark Waybright  
Heartland Rehabilitation Services  
540 Kingsley Avenue.  
Orange Park, FL 32073

September 19, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-14129-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to you today to express my concern over the recent proposal that would limit providers of “incident to” services in physician offices and clinics. If adopted, this proposal would severely limit the abilities of licensed health care professionals to provide important services to patients. In turn, it would require additional legwork by the physician and the patient to receive treatment that must now be outsourced to therapists outside the doctor’s office at an additional cost.

There have never been any limitations or restrictions placed upon physicians in terms of who he/she can utilize to provide any “incident to” service. The entire medical system is based upon the physician’s ability to determine which plan of care is best for their patients and who is or is not qualified to provide services for their patients. It is important that physicians remain the primary decision makers of not only the type of care needed for their patients, but who is the best qualified to deliver this care.

This country is experiencing an increasing shortage of credentialed health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified and licensed health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost, and a lack of local and immediate treatment.

Athletic trainers are highly educated. All athletic trainers are nationally certified, and all have attained a bachelor’s degree, with most (70%) attaining master’s degrees from an accredited college or university. The core coursework required for a degree in athletic training matches those required of physical therapists, occupational therapists, registered nurses, and speech therapists. All athletic training educational programs are accredited through an independent process by the Commission of Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

Athletic trainers are employed by almost every U.S. college or university with an athletic program and every professional sports team in America also trusts and relies on this group to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece this summer to provide medical services for the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who goes to their physician for treatment of injuries is absurd and unjustified.

To allow only physical therapists, occupational therapists, and speech pathologists to provide “incident to” outpatient therapy services would improperly provide exclusive rights to Medicare reimbursement. To mandate only these practitioners may provide “incident to” outpatient therapy in physicians’ offices would improperly remove the states’ rights to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

CMS in proposing this change offers no evidence that there is a problem with the current system. By all appearances, this is being done to appease the special interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

In summary, this proposed change to “incident to” services is not necessary or advantageous for CMS to implement. This change can only hinder the physician’s ability to provide appropriate and immediate care to their patients.

Sincerely,

Mark Waybright, ATC/L

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

To: Department of Health and Human Services

I would like to express my grave concern for the outdated CMS map of our community which defines Santa Cruz as "rural" drastically reducing the reimbursement potential for doctors in our community. CMS must remap California to fairly reflect current economic conditions. Our community needs qualified physicians. Current unjust CMS policies have our doctors moving a mere 30 miles away to receive fair payment. Our communities healthy future depends upon our ability to recruit and keep qualified physicians. Without a change in CMS map designation to the correct "urban" status, physicians will continue to leave. Without qualified physicians, you force seniors to leave the area; leaving family and friends behind.

It is imperative that CMS, a federal program, be current and fair. You hold Medicare providers to high standards. CMS should do the same. When we come to inspect you, we should find that you are current and fair.

This must be a top priority. The health of our county depends upon it.

Sincerely,

Joan Bosworth

**CMS-1429-P-2029**

**Submitter :**  **Date & Time:**

**Organization :**

**Category :**

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See Attached File

CMS-1429-P-2029-Attach-2.doc

CMS-1429-P-2029-Attach-1.doc

Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1476-P  
P.O. Box 8013  
Baltimore, MD 21244-8012

To Whom It May Concern:

Over the past two weeks there has been a great deal of discussion about the position statement that has recently been released. The proposal of limiting providers of “incident to” in physicians’ offices would significantly decrease the quality of care to Medicare patients. The additional health care providers that physicians refer their patients to, for example Certified Athletic Trainers, help to decrease the waiting period for treatment and decrease costs as well.

One of the most consistent reasons behind this proposal that I have found is the lack of understanding about the other health care jobs. Instead of trying to understand the training each profession goes through and the substance of their education, people just assume they do not know enough. Athletic Trainers for instance undergo four years of undergraduate education. Their classes are those such as Therapeutic Exercise, Human Anatomy and many others. These classes give the Athletic Trainers the knowledge to rehabilitate all injuries to the athletic population. They also put in countless number of hours of clinical experience to practice the application of these skills.

Physicians should be able to utilize all health care professionals that are trained to perform the care that is being requested. Often times it is optimal to have an athlete undergo therapy with an Athletic Trainer because the main focus of an ATC is in the athletic setting. The Certified Athletic Trainer has more experience with athletes and understands what the athlete needs.

As a Certified Athletic Trainer for two and a half years I would be devastated if I could not put all of my hardwork to use for as long as some of my esteemed colleagues have had the opportunity to do. To work as a Certified Athletic Trainer has been a dream of mine for the last six years and I find this proposal insulting and disturbing. I see Certified Athletic Trainers that have been working for over twenty years and still enjoy their job and feel rewarded by all the people they have helped. Twenty years from now I want to be able to look back and reflect on all the people I have helped. If this proposal goes through I will not be able to fulfill this dream. All of the sacrifices that my family and I have made will have meant nothing.

I urge you to consider all of the people that this will affect and get all sides before a decision is made. Thank you for giving me this opportunity to express my feelings about this position statement.

Sincerely,

Jessica Springstead, MEd, ATC

Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1476-P  
P.O. Box 8013  
Baltimore, MD 21244-8012

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I urge you to consider all of the people that this will affect and get all sides before a decision is made. Thank you for giving me this opportunity to express my feelings about this position statement.

Sincerely,

Jessica Springstead, MEd, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Santa Cruz County's median home price is \$630,000 thereby making it deserving of the same urban classification as Santa Clara County. Our rural designation needs to be changed or we are going to lose more and more doctors. Unintentionally, the federal government is slowly destroying the health-care system in our community. Please change our classification to urban.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am writing in strong support of the proposed personnel standards for physical therapy services that are provided "incident to" physician services in the physician's office. For the safety of the patient it is imperative that physical therapy only be performed by qualified personnel and that would be a physical therapist or a physical therapist assistant working under the direction of a physical therapist. All physical therapists must be graduates of an accredited professional physical therapy program which is a postbaccalaureate degree at a master's level and doctorate degree. In addition all physical therapists are licensed in the states where they practice and are accountable for their professional actions.

It is extremely harmful to the public to allow unqualified personnel as the physician's nurse or support staff to perform physical therapy treatments especially when those patients are Medicare beneficiaries who are elderly and have comorbidities.

Further, Section 1862(a)(20) of the Social Security Act requires that in order for a physician to bill "incident to" for physical therapy services, those services must meet the requirements for outpatient therapy services in all settings. Thus, the services must be performed by individuals who are graduates of accredited professional physical therapist education programs.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Dear Sir or Madam:

I am writing you to inform you of the implications of proposed changes to incident to reimbursement. Currently certified athletic trainers (ATC) can provide rehabilitative care to patients in the clinic or hospital setting under the supervision of a physician. If the proposed changes were made, only physical therapist (PT) and physical therapy assistants (PTA) could provide this care.

Certified athletic trainers receive an education similar to that of physical therapists, many times taking the same core curriculum. As students, athletic trainers fulfill approximately 800 hours of clinical work and partake in academic coursework that includes human physiology, human anatomy, biomechanics, nutrition, acute care of musculoskeletal injury, statistics, and exercise physiology. They also must hold a bachelor's or master's degree from an accredited university and pass the NATABOC certification test. This test emphasizes six major domains: Injury Prevention, Injury Evaluation and Management, Rehabilitation and Treatment, Emergency Care, Organization and Administration, and Professional Development. After attaining the title of ATC, athletic trainers must continue to stay up to date with new research by complete continuing education credits. The quality of care that certified athletic trainers provide is very comparable to that of physical therapists. ATC's receive two to four more years of schooling than PTA's. Although physical therapists have more training in certain realms such as congenital disorders or mental illness, ATC's are well trained and capable of managing and rehabilitating musculoskeletal injuries, especially when it comes to physically active and athletic populations. Research shows that the quality of services provided by both the ATC and PT are comparable.

If the proposed changes were made physicians could no longer make the decision of who provides incident to therapy, it would have to be a physical therapist. A large portion of the professionals providing this care would no longer be allowed to creating inaccessibility to quality medical care. Not only would this result in a lower quality of care but also drive up costs as the supply of professions providing rehabilitative care diminishes.

In order to control costs and maintain quality the CMS should not approve the proposed changes. Certified athletic trainers are highly educated health care professions, that are trained in rehabilitative therapy and are capable of providing these services by order of a physician in a hospital or clinic. To eliminate this job setting for the ATC would drive health care costs up and reduce quality and access to care.

Sandeep Soin

Sandeep Soin  
49 Quint Ave.  
Allston, MA 02134

September 14, 2004

Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS 1429-P  
P.O. Box 8012  
Baltimore, MD 21244

Re: Therapy- Incident To

Dear Sir or Madam:

I am writing you to inform you of the implications of proposed changes to incident to reimbursement. Currently certified athletic trainers (ATC) can provide rehabilitative care to patients in the clinic or hospital setting under the supervision of a physician. If the proposed changes were made, only physical therapist (PT) and physical therapy assistants (PTA) could provide this care.

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care but also drive up costs as the supply of professions providing rehabilitative care diminishes.

In order to control costs and maintain quality the CMS should not approve the proposed changes. Certified athletic trainers are highly educated health care professions, that are trained in rehabilitative therapy and are capable of providing these services by order of a physician in a hospital or clinic. To eliminate this job setting for the ATC would drive health care costs up and reduce quality and access to care.

Sincerely

Sandeep Soin

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

The area where I live is having serious problems with the ability to get doctors and other health care practitioners. The reason is that it is incorrectly listed as a "rural" area. In fact, Santa Cruz County is part of the greater "Silicon Valley" area. Most of the wage earners commute to central Silicon Valley and we need to pay health care professionals as much as they could make in Santa Clara County. It is not reasonable to expect people to commute for health care and it is impossible to live here without making Santa Clara County wages.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

TO: Mark B. McClellan, MD, PhD  
Centers for Medicare and Medicaid Services  
US Dept of Health and Human Services  
Attention: CMS 1429-P

My name is Rich Baudry, and I am a licensed Physical Therapist in Louisiana. I have worked as a PT in a Physical Therapist owned outpatient practice for the past 10 years. I have completed an APTA approved certification in orthopaedic Physical Therapy and will complete a Doctorate program in Physical Therapy by the end of 2004.

I am writing to support the proposal that all physical therapy services should be provided by licensed Physical Therapists in all settings including MD offices. Physical Therapists and Physical Therapist Assistants supervised by PTs, are the ONLY qualified individuals to provide Physical Therapy services. We have extensive training in anatomy, and neurophysiology, as well as training in movement dysfunction and functional restoration.

PT services provided by other practitioners, can be harmful, expensive and inefficient for both the patient and CMS. Patients have little understanding of physical therapy and can be easily fooled into services that are ineffective, and sometimes hurtful. Significant objective findings and contraindications to treatment can be easily overlooked or discounted, leading to further injury or dysfunction. Physical Therapists are educated and required to perform high level neuromusculoskeletal evaluations, and are trained to look for contraindications to treatment and other evidence that may identify pathology other than musculoskeletal problems.

Being a licensed Physical Therapist carries with it great responsibility to provide quality, appropriate treatments with an accountability to patients to promote the best possible outcomes. Physical Therapy is our profession, our passion, and our livelihood. We are committed to high quality treatment and cannot allow others to provide less than optimal services. No one is qualified to provide Physical Therapy services other than licensed Physical Therapists with the assistance of licensed Physical Therapy Assistants.

I am enthusiastically supporting CMS's proposal.

Thank You for listening to my comments

Sincerely,

Richard Baudry, PT, OCS

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 1-9**

CODING-GLOBAL PERIOD

Dear CMS,

as a citizen of Santa Cruz county, California. I am greatly concerned by Center for Medicare & Medicaid Services (CMS) designation of Santa Cruz as a "rural" county for terms of medical reimbursement rates.

As you may know, most insurance companies use these designations to determine the reimbursements they pay to our hospitals and doctors. The median price of homes in our county is currently \$630,000.00 ? hardly the price for a home you might find in more rural counties. Yet despite the high cost of living in this county, our hospitals and doctors are still reimbursed as if living expenses in this county were a fraction of what they are.

The net effect of our being designated as a "rural" county is that we are losing medical staff to bordering counties designated as "urban" (these counties can pay their doctors and hospitals higher amounts than we can in Santa Cruz county). And we can not recruit new doctors to move to our county because they can easily bypass Santa Cruz county and work in the San Jose area for much higher wages.

In addition to this, the trauma center that has traditionally served Santa Cruz and Monterey counties (the San Jose Medical clinic) has just decided to shut its doors on December 1, 2005. This leaves citizens of our county in grave danger should they incur trauma injuries. And because our county is incorrectly designated a "rural" county for medical reimbursements, there are no business incentives for new hospitals, trauma centers, or doctors to set up shop in Santa Cruz county.

Please act immediately to update our county's reimbursements status from "rural" to "urban" in order to deliver congress' promise to "fairly and equitably adjust physicians' payments based on local variations in the cost of delivering care.

GPCI

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as a citizen of Santa Cruz county, California. I am greatly concerned by Center for Medicare & Medicaid Services (CMS) designation of Santa Cruz as a "rural" county for terms of medical reimbursement rates.

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PRACTICE EXPENSE

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as a citizen of Santa Cruz county, California. I am greatly concerned by Center for Medicare & Medicaid Services (CMS) designation of Santa Cruz as a "rural" county for terms of medical reimbursement rates.

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SECTION 303

Dear CMS,

as a citizen of Santa Cruz county, California. I am greatly concerned by Center for Medicare & Medicaid Services (CMS) designation of Santa Cruz as a "rural" county for terms of medical reimbursement rates.

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SECTION 413

Dear CMS,

**CMS-1429-P-2035**

as a citizen of Santa Cruz county, California. I am greatly concerned by Center for Medicare & Medicaid Services (CMS) designation of Santa Cruz as a "rural" county for terms of medical reimbursement rates.

As you may know, most insurance companies use these designations to determine the reimbursements they pay to our hospitals and doctors. The median price of homes in our county is currently \$630,000.00 ? hardly the price for a home you might find in more rural counties. Yet despite the high cost of living in this county, our hospitals and doctors are still reimbursed as if living expenses in this county were a fraction of what they are.

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**SECTION 611**

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**SECTION 612**

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#### SECTION 613

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#### Issues 10-19

##### DEFINING THERAPY SERVICES

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#### SECTION 302

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#### SECTION 512

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SECTION 614

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SECTION 623

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SECTION 731(b)

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## CMS-1429-P-2035

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### THERAPY ASSISTANTS IN PRIVATE PRACTICE

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## Issues 20-29

### ASSIGNMENT

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#### TECHNICAL REVISION

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## CMS-1429-P-2035

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Submitter : Mrs. Linda Seaton Date & Time: 09/20/2004 01:09:32

Organization : Florida State Massage Therapy Association

Category : Other Health Care Professional

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please do NOT pass this policy whereas a physician can only refer "incident to" services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

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**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-2038-Attach-1.txt

Attachment #2038

Dear Sir/Madam: I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.

To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health

care professions deemed qualified, safe and appropriate to provide health care services. CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

David J. Ralston

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**CMS-1429-P-2039**

**Submitter :**  **Date & Time:**

**Organization :**

**Category :**

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

please see attached file

CMS-1429-P-2039-Attach-2.txt

CMS-1429-P-2039-Attach-1.doc

Attachment #2039  
(1 of 2)

Michael J. Shannon ATC, CSCS  
29 Mass Ave.  
Danvers, MA 01923

September 19, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Michael J. Shannon ATC, CSCS

29 Mass Ave.  
Danvers, MA 01923

Attachment #2039 (2 of 2)

Michael J. Shannon ATC, CSCS  
29 Mass Ave.  
Danvers, MA 01923

September 19, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

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During the decision-making process, please consider the following:

Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

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To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists. Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Michael J. Shannon ATC, CSCS

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. As a certified athletic trainer (ATC), I feel that as a member of this profession I am more than qualified to provide these services at the physician?s discretion. Previously Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service.

Certified athletic trainers are highly educated. ALL certified athletic trainers must have a minimum of a bachelor?s degree, and many like myself also have a master?s degree from an accredited university. Foundation courses include human physiology, human anatomy, kinesiology/biomechanics, exercise physiology, therapeutic exercise, and acute care of injury and illness to name just a few. These academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

Certified athletic trainers are employed by almost every U.S. post-secondary educational institution with athletic programs, every professional sports team in America as well as many high schools to prevent, assess, treat, and rehabilitate injuries. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who has sustained a musculoskeletal injury and goes to their local physician is outrageous and unjustified.

In conclusion it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Jason M. Carl, MA, ATC, CSCS

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

OTHER - INCIDENT TO

This letter is written in regards to a recent proposal by your organization, The Centers for Medicare and Medicaid Services, involving athletic trainers. The changes your organization is proposing would prevent reimbursement by Medicare or Medicaid for rehabilitative services provided by a certified athletic trainer under the supervision of a physician, in a clinical setting. Not only will this limit the physician's ability to choose an appropriate health care provider for their patients, it will also interfere with the patient's ability to receive competent, professional quality healthcare from individuals trained and specialized in this area.

Certified athletic trainers are qualified to perform a variety of rehabilitative services within a wide array of settings, both clinical and non-clinical. They are trained extensively in numerous on and off-the-field evaluative techniques which provide them with a strong basis for providing excellent therapeutic and rehabilitative services.

The clinical education experiences of an athletic trainer are extensive and are in some cases much more involved than those of Physical Therapy Assistants or Occupational Therapy Assistants, who under your proposed changes would still be covered by Medicare and Medicaid to perform services under a physician. In fact, according to the Federal Government, preparation for certification as an athletic trainer is equivalent to that of a physical therapist, and the rating for level of education, preparation required and duties performed by an athletic trainer according to the United States Department of Labor is higher than that of Occupational Therapists and is significantly higher than the rating for Occupational Therapy Assistants and Physical Therapy Assistants. In addition, athletic training students are often required to take many of the same classes as are physical therapy students, and are trained specifically in programs in areas of pathology of injuries and illnesses, recognition, evaluation and assessment of injuries, treatment, rehabilitation, and reconditioning, therapeutic modalities, and therapeutic exercise.

The certification process for an athletic trainer allows them to work in a variety of settings including in a physician's office providing therapy for patients. An athletic trainer who is certified by the National Athletic Trainers Association (NATA) is a highly qualified paramedical professional, educated and experienced in dealing with injuries. Candidates for certification are required to have an extensive background of both formal academic preparation and supervised practical experience in a clinical setting.

It is because of these above mentioned reasons that I am asking you to reconsider your proposal to prohibit reimbursement by Medicare and Medicaid for services provided by a certified athletic trainer. It is in the best interests of the patients across the United States seeking qualified individuals to aid in their healthcare and rehabilitation that you do so. We as healthcare professionals should seek to further cooperate to achieve our goals of helping the people who seek our aid.

Thank you for your time

Lyndee Zimpfer and concerned Athletic Training student

Submitter : Mrs. Patti Taira-Tokuuke Date & Time: 09/20/2004 02:09:35

Organization : Mrs. Patti Taira-Tokuuke

Category : Physical Therapist

**Issue Areas/Comments**

**Issues 10-19**

THERAPY ASSISTANTS IN PRIVATE PRACTICE

I strongly support CMS's proposal to eliminate the requirement that physical therapist provide personal - in the room supervision of the PT assistant in the private practice office and replace it with a "direct" supervision requirement. Medicare needs to be consistent with it's supervision requirement for PTAs in private practice setting. PTAs have the education and training to safely and effectively deliver services without physical therapists being in the same room. It is allowed in home health care as well as the hospital and SNF settings. It should be allowed in the private practice setting as well.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file

Attachment #2043  
Stephanie K Wallace MA, ATC  
101 N Sycamore # 7  
Paducah, KY 42001

9-19-04

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- The physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- To allow only PT and PTA, OT and OTA, and SLP to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- Independent research has demonstrated that the quality of services provided by an ATC is equal to the quality of services provided by a PT.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Stephanie K Wallace MA, ATC  
101 N Sycamore #7  
Paducah, KY 42001

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

September 19, 2004

Athletic Training Program  
School of Physical Education  
Muncie, IN 47306

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of ?incident to? services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Darren Dase

Athletic Training Student at Ball State University

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

September 19, 2004

Athletic Training Program  
School of Physical Education  
Muncie, IN 47306

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

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In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Darren Dase

Athletic Training Student at Ball State University

Submitter : Miss. Heather Walter Date & Time: 09/20/2004 03:09:56

Organization : JMU

Category : Individual

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am writing to inform you that I disagree with the CMS proposal. An athletic trainer is just as qualified to perform services as a PT, PT aide, OT, or OT aide is. An athletic trainer has to pass a national certification exam and has to continue their learning throughout their career. According to U.S. Department of Labor, athletic trainers have a higher rating than the other rehab providers according to level of education, preparation required, and duties performed.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Student Athletic Trainer comments

Attachment #2047  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-p  
P.O. Box 8012  
Baltimore, MD 21244-8012

Therapy-Incident To

I am writing in regards to the proposal which seeks to limit the care in which athletic trainers can provide. How can the federal government say that an athletic trainer is not qualified to provide physical medicine services to Medicare patients? While I understand that the education, I receive as an athletic training major differs substantially from that of somebody who is going through a physical therapy program, we are both more than qualified to provide care to a variety of injured people. If athletic trainers can care for top athletes and help them from an acute injury through to recover and return to play, I don't understand why working with the elderly would be any different. Athletic trainers and physical therapists are well educated in anatomy, physiology, assessing injuries, treating and rehabilitating. While a difference in age is obvious, bones, muscles and other tissues of the body will be in the same places in the body, go through the same healing process and respond to treatments in young and old alike.

As a junior in college, with a demanding major that requires countless hours in and out of the classroom, I'd like to think that by the time I finish, I'd be considered competent. Competent not only to work with the injuries of young stars but to be able to help people of all ages. With two more years of college, I am starting to feel the urgency to decide what I will do after, and how my major and certification are going to play a part in my life. When imagining myself as an ATC, oftentimes I see myself more in a clinical setting as opposed to in a high school, college or with a pro sports team. While I think that I could be a successful athletic trainer and a wonderful addition to the medical world, family is something that I am really looking forward to. I am drawn to a more concrete schedule like that of a clinical setting. If this proposal succeeds, people in this type of setting may be unable to practice and patients will be missing out on the wonderful gifts that athletic trainers have to offer.

Thank you so much for your time in consideration of this matter that has the potential to ruin careers of athletic trainers already, and those like me who are aspiring to be one someday.

Sincerely,

Amy Bowers  
Whitworth College Athletic Training Student

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am writing in deep concern regarding the proposed changes to limit providers 'incident to' in physician's clinics. If passed, these changes will further hamper healthcare provided and directed by physicians. The current proposed changes also incorrectly exclude qualified healthcare professional such as Certified Athletic Trainers. With a national examination, a national board of certification, a national education accreditation, and nearly every state mandating regulation/ qualifications- Certified Athletic Trainers have been deemed as qualified to provide 'incident to' should a physician choose.

Furthermore, it is interesting to note that the proposed CMS changes would only allow PT's, access to medicare patients. These proposed changes seem to only benefit one sole provider and do not exhibit the best interest of the patient. Nationly, the APTA is sponsoring state legislation to 1) prohibit physician owned physical therapy clinics- thus a direct conflict to the current proposed CMS changes, 2) to have direct access for patients to a physical therapist- thus bypassing the most trusted means (a physician)of evaluation, diagnosis, and management of care. CMS does not have authority to limit licensure by each state. Nor does CMS have authority to regulate who can and cannot see patients 'incident to' in a physicians office, specifically when qualifications have already been set forth. This further demonstrates the fact these proposed changes are aimed to seek exclusivity for a sole healthcare provider.

Certified Athletic Trainers have been shown by independent research to provide services equal to that of a PT.

The nations healthcare system is unfortunately in disaray, this prpsal will only add to that. By passing the changes it will result in delays in patients care, a further limitation of physicians accepting medicare patients, greater cost to patients, and lack of local and immediate treatment.

I urge you to not accept these changes as they are unjust and not needed.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am very dismayed at the proposal put forward. This proposal will take the treatment for my patients out of my hands and my office. Physical therapists are not the only health professionals trained to give manual therapy or modalities to patients; thus this bill would eliminate the other occupations trained to do such work (such as, physicians or athletic trainers).

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

To Whom It May Concern:

In today's economy, it is imperative that we do not make rash decisions that will have exponential negative healthcare and economic effects. My concern is that recent discussions will lead to limiting the providers of outpatient therapy services 'incident to' in physicians' offices. If adopted, this proposal would eliminate the ability of qualified health care professionals to provide these important services. As a certified athletic trainer, I would be one of the numerous qualified health care providers that would be left without a job and unable to find a new one because if the services that I provide are not paid for by Medicare, it is not financially feasible for any physician to continue to employ professionals such as myself.

Additionally, by limiting providers in this way, it would reduce the quality of health care for our Medicare patients, increase costs, and place an undue burden on the health care system. By including all qualified health care professionals (including certified athletic trainers) as providers of outpatient therapy services 'incident to' physicians' services all patients will benefit from a higher level of care, by those most qualified to address the individual needs of each person.

The limiting of providers of these services only to physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, and speech and language pathologists will financially mandate that all Medicare patients be primarily seen for therapy services by less qualified providers. Because physical therapy assistants and occupational therapy assistants have only two years of schooling and training. This is not meant to say that they are not qualified, but rather to say that there are other providers with the appropriate expertise and education who are more qualified.

Certified athletic trainers have education and experiences that vastly surpass that of physical therapy assistants and occupational therapy assistants. To become a certified athletic trainer the minimum education required is that of a bachelors degree in our field of study, although the vast majority of certified athletic trainers have at least a masters degree. Our education and training affords us an independent medical knowledge for treating our patients, therefore providing our patients with safe, medically sound, expedient therapies.

By limiting the providers of 'incident to' services, Medicare patients will be provided a diminished level of care. This would hinder the patients' recovery and increase not only the recovery time, but also the expense to the Medicare system. This will also cause a domino effect to non-Medicare patients, since many insurance companies make it a policy to adopt the same standards as Medicare has.

In conclusion, this would truly be an exponentially tragic decision for healthcare in our nation, should the limiting standard be adopted. Not only would it increase healthcare costs, but also it would diminish the level of care, put an undue burden on an already stressed healthcare system. Moreover, the adoption of such a limiting policy would create serious economic ramifications on our country, by increasing unemployment due to the loss of employment for so many highly qualified certified and licensed professionals. There would be decreased consumer spending, increased default on loans such as mortgages and student loans, and an increased burden on government programs such as unemployment compensation, and welfare programs due to the inability of these certified and licensed professionals to find any work in their field, because you have regulated them out of the reimbursement loop. It is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent and not in the best interest of our country as a whole.

Sincerely;  
Holly J. Odean, M.S., A.T.,C./L.



Attachment #2050

4343 N. Clarendon Ave. #1810  
Chicago, IL 60613

September 19, 2004

Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

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Additionally, by limiting providers in this way, it would reduce the quality of health care for our Medicare patients, increase costs, and place an undue burden on the health care system. By including *all* qualified health care professionals (including certified athletic trainers) as providers of outpatient therapy services "incident to" physicians' services all patients will benefit from a higher level of care, by those most qualified to address the individual needs of each person.

The limiting of providers of these services only to physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, and speech and language pathologists will financially mandate that all Medicare patients be primarily seen for therapy services by less qualified providers. Because physical therapy assistants and occupational therapy assistants have *only* two years of schooling and training. This is not meant to say that they are not qualified, but rather to say that there are other providers with the appropriate expertise and education who are more qualified.

Certified athletic trainers have education and experiences that vastly surpass that of physical therapy assistants and occupational therapy assistants. To become a certified athletic trainer the minimum education required is that of a bachelors degree in our field of study, although *the vast majority of certified athletic trainers have at least a masters degree*. Our education and training affords us an independent medical knowledge for

treating our patients, therefore providing our patients with safe, medically sound, expedient therapies.

By limiting the providers of “incident to” services, Medicare patients will be provided a diminished level of care. This would hinder the patients’ recovery and increase not only the recovery time, but also the expense to the Medicare system. This will also cause a domino effect to non-Medicare patients, since many insurance companies make it a policy to adopt the same standards as Medicare has.

In conclusion, this would truly be an exponentially tragic decision for healthcare in our nation, should the limiting standard be adopted. Not only would it increase healthcare costs, but also it would diminish the level of care, put an undue burden on an already stressed healthcare system. Moreover, the adoption of such a limiting policy would create serious economic ramifications on our country, by increasing unemployment due to the loss of employment for so many highly qualified certified and licensed professionals. There would be decreased consumer spending, increased default on loans such as mortgages and student loans, and an increased burden on government programs such as unemployment compensation, and welfare programs due to the inability of these certified and licensed professionals to find *any* work in their field, because you have regulated them out of the reimbursement loop. It is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent and not in the best interest of our country as a whole.

Sincerely,

Holly J. Odean, M.S., A.T.,C./L.  
(773)929-9139

Submitter : NARESH GUPTA Date & Time: 09/20/2004 04:09:26

Organization : NARESH GUPTA

Category : Physician

Issue Areas/Comments

**GENERAL**

GENERAL

TO REDUCE THE COST OF ONCOLOGY EXPENSE, THE CHEAPER MEDICATIONS SHOULD BE GIVEN MUCH HIGHER REIMBURSEMENT THAN MORE EXPENSIVE ONE: ONE EXAMPLE MAY BE ADRIAMYCIN AND EPIRUBICIN. THIS WILL ENCOURAGE PROVIDER TO USE LESS EXPENSIVE MEDICATION.

MEDICARE SHOULD ENSURE THAT THE SMALLER PRACTICES ARE NOT AFFECTED WHEN THE PROPOSED CHANGES COME. FOR EXAMPLE, WHEN ONCOLOGY DRUGS (INJECTABLES) WILL BE REIMBURSED AT 6% OVER ASP, THE LARGER GROUPS ARE LIKELY TO BENEFIT BECAUSE OF THE VOLUME DISCOUNTS. IT WILL SQUEEZE SMALLER PRACTICES, AND WILL EITHER DRIVE CARE TO MORE EXPENSIVE HOSPITALS OR WILL END IN CLOSURE OF PRACTICE. THIS WILL AFFECT BOTH PATIENT CARE AND COST OF CARE. THE LARGER PRACTICES, IN TURN, WILL HAVE NO COMPETITION AND ULTIMATELY DRIVE THE COST UP.

IN MY OPINION WHILE MEDICARE REVISES ITS PAYMENT POLICIES, IT SHOULD PROBABLY PROVIDE HIGHER COMPENSATION TO SMALLER PRACTICES AND OFFSET THAT REIMBURESEMENT BY MAKING A FURTHER CUT IN LARGER PRACTICE GROUPS. ALSO, THAT LOW COST MEDICINES OF EQUAL OF NEAR EQUAL EFFICACY SHOULD BE OFFERED HIGHER REIMBURESEMENT. PHYSICIANS WHO GAIN DIRECTLY OR INDIRECTLY, FROM ANCILLIARY SERVICES(LIKE RADIOLOGY SERVICES, RADIATIONS REFERRALS), SHOULD BE PAID LOWER RATES. ULTIMATELY IT WILL RESULT IN TREMENDOUS COST SAVING TO CMS

Submitter : Mrs. Carina Broxterman Date & Time: 09/20/2004 04:09:38

Organization : Mrs. Carina Broxterman

Category : Physical Therapist

**Issue Areas/Comments**

**GENERAL**

GENERAL

Dear Dr. McClellan,  
I write on behalf of myself, a Certified Physical Therapist Assistant and the Consumer.

It is my hope that people needing the services of physical therapy can be confident that they receive such services from only a Physical Therapist and/or Certified Physical Therapist Assistant. These professionals have been trained specifically to give out those services and know the reasons for and contraindications of physical therapy procedures. Other professionals such as athletic trainers are not trained in physical therapy services but in their said title services - athletic training procedures. If an athletic trainer works with a person who has had a stroke and defines it as physical therapy and causes harm to the person, this could give the person a bad impression of physical therapy. P.T.'s and CPTA's are trained extensively in stroke rehabilitation at school and through continuing education and many work with the elderly, medically frail and individuals that have several medical conditions existing together such as diabetes and stroke. Athletic trainers primarily work with the healthy athlete desiring to perform better or injured playing a sport. Please protect the public and let them receive the services they pay for. If the consumer wants athletic services let them seek that out and not be misled that anyone can perform physical therapy.

Thank you for your consideration of my comments.

Sincerely,  
Carina Broxterman, CPTA

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Regarding CPT Code 36870, the proposed 2005 Fee schedule is very concerning because it reduces the Non-Facility RVUs by 27.7%. In the outpatient, office-based practice, we try to keep the patient out of the hospital by providing prompt and efficient declotting service when the dialysis fistula or the graft are clotted. Keeping the patient out of the hospital reduces cost of the declotting. In our out-patient office based practice, we do not get reimbursed for supplies used in connection with the procedure. When you decrease the RVU by 27.7%, you will jeopardize this outpatient operation, because the costs of supplies, personnel, equipment, coding and billing is constantly increasing. Please, read my attached letter in which I detail the argument and the reasons for my pledge to you to revise your decision before the final rule.

Attachment #2053

Date: September 19, 2004

Dear CMS Representative:

I am a practicing nephrologist in Houston, Texas. Within the specialty of nephrology, I have developed expertise in management of Hemodialysis Vascular Access. I have become the Medical Director of a Dialysis Access Management Center devoted to the care of vascular access. In this center I declot thrombosed grafts and fistulas. Few centers have expertise in declotting thrombosed arteriovenous fistulas. Our success rates in performing thrombectomies on dialysis grafts has reached 94.5%, and our success rates with declotting fistulas are more than 80%. We have data on file to back this up.

Declotting the fistula and the graft in an outpatient facility is the goal:

I have spent a significant amount of time learning technical skills that help perform a successful declot of a graft as well as a fistula. Declotting of either dialysis access in an outpatient facility or a free standing office-based facility prevents the patient from being admitted to the hospital, which in turn leads to additional expenses incurred from delays in operating room schedules and less economic use of resources. Very frequently these patients receive a dialysis catheter as a temporary measure until the operating room schedule permits surgical thrombectomy to be performed. Very often these patients spend 2 or more nights in the hospital before a thrombectomy is done. Hence, it is very essential and financially sound, to keep these patients out of the hospital as much as possible. This is exactly the goal of a dedicated free standing outpatient facility. In the outpatient facility, the thrombectomy is done, most often in the same day, and the patient returns to dialysis promptly.

The goal of keeping these patients, with thrombosed grafts and fistulas, out of the hospital can be achieved by skillful interventionalists working with a team of technicians, using the state of the art tools and supplies, and giving each case enough time to achieve the desired result. One can not achieve these results if resources are curtailed or the cost of supplies becomes prohibitive.

Requirements for successful outpatient procedure:

A. Dedicated procedure Room:

First of all, the interventionalist needs a dedicated angiographic suite, built to certain specifications that allow enough room, and with walls that are built to prevent transmission of radiation. This suite should be equipped with expensive equipment that includes a Fluoroscopic unit (C arm).

B. Salaried Employees:

Second, the interventionalist needs three employees in every procedure to perform a thrombectomy: A registered nurse, a radiology technician, and a scrub nurse. These staff are in addition to secretarial staff and other personnel working in the admissions area and the recovery area of the facility.

#### C. Expensive Supplies:

Third, the interventionalist can not achieve these results if he/she can not use the state of the art tools such as angioplasty balloons or advanced glide wires. Without the proper tools (supplies such as balloons, wires, dilators, sheaths, thrombectomy devices, etc.) one can not achieve these results in the difficult cases. More often than not, the thrombectomy procedure requires extra supplies such as extra wires, extra angioplasty balloons, high pressure angioplasty balloons or other devices that are demanded by trouble shooting on a case by case basis. The goal of keeping the patient out of the hospital can not be achieved if the difficult thrombectomy cases are avoided because they consume more supplies.

#### D. Supplies the can not be used due to high cost:

For example, many interventionalists in an office setting are not able to use the state of the art declotting device called “angiojet”. This device is very efficient and very safe in removing the thrombus from the graft. None of the office based facilities are able to use this superior device because its unit supply cost of \$700 per procedure is prohibitive. Such cost is in addition to the purchase of the necessary piece of equipment (thousands of dollars) that allows the angiojet device to function. You will notice that the only users of this device are hospitals but not office based settings where there will be no reimbursement for the cost of supplies. This is not conducive to use of the state of the art equipment in settings outside hospitals at the current time.

#### The Concerns I raise:

##### A. Decrease in Reimbursement:

To my great concern, in the newly proposed fee schedule for the percutaneous thrombectomy code 36870, the Non-Facility RVUs have been reduced from 46.98 down to 32.39, which is a reduction of 27.7%. Work RVUs are unchanged and the malpractice RVUs increased slightly.

##### B. Increase in Cost:

During the past year, there has been no reduction of the cost associated with performing the thrombectomy in an office setting. We are still faced with significant costs associated with employee salary, and cost of equipment and supplies in these technically difficult procedures performed on chronically ill and very challenging dialysis patients.

On the other hand, the cost of some supplies such as high pressure angioplasty balloons has gone up. The cost of technician and employee salary has gone up. Already the cost of non-ionic contrast agents prohibits their use. Already the cost of the “angiojet” thrombectomy device prohibits its use.

C. Challenges of billing:

Add to all of the above the challenges of coding, billing and collections of generated claims which requires additional personnel and adds to the cost of the procedure.

D. Some declots are done for free and CMS may never know about them:

A unique issue that I also like to mention is that when the graft or fistula of the dialysis patient clots, it is an emergency. It has to be declotted within a short period of time so that the patient can return to dialysis as soon as possible. Many times the interventionalist accepts patients to have the procedure done before the insurance is verified. In many cases, the interventionalist can not wait for insurance verification, and many times the procedure ends up being done for free. Not only the time of the interventionalist and his team has been consumed in the process, but also supplies have been consumed. In such instances the collection on the procedure will be zero dollars. Yet the interventionalist has helped the patient and prevented an admission to the emergency room.

My Request:

Thus the interventionalist in the office setting is faced with increasing challenges, yet your proposed 2005 fee schedule for code 36870 drastically decreases reimbursement. I am requesting that you not decrease the reimbursement for this code 36870, and I hope you do that before the final ruling

My Sincerest Regards,

George Nassar, M.D.  
Clinical Assistant Professor of Medicine  
Medical Director  
Dialysis Access Management Center,  
1415 La Concha Lane  
Houston, Texas 77054

Comments for Proposed Fee schedule for Percutaneous thrombectomy 36870

Submitter : Mrs. stephanie Olson Date & Time: 09/20/2004 04:09:46

Organization : APTA

Category : Physical Therapist

**Issue Areas/Comments**

**Issues 20-29**

**THERAPY - INCIDENT TO**

I support the provision that requires any "physical therapy" ordered by and done incident to a physician's visit be performed by a physical therapist or physical therapist assistant under the direct supervision of a physical therapist.

Therapeutic modalities must be applied properly to be effective and safely. I know of a physician in our area who has a medical assistant/secretary applying ultrasound to patients during or after their appointment with her. Many of these patients have reported the ultrasound treatment was "painful" and their complaints of pain were ignored. This has left me concerned that harm was being done to these patients.

**THERAPY STANDARDS AND REQUIREMENTS**

I have concerns that when physicians "do physical therapy" in their offices without the direct on-site presence of a physical therapist that the "therapy" is being done by staff not trained to do the therapeutic modalities or prescribe therapeutic exercises correctly.

Physical Therapists (7+ years) and physical therapy assistants (2+ years) have extensive training in the proper application of modalities and therapeutic exercises.

When physical therapy is done by untrained persons it has negative potential in two ways.

One, waste of medical dollars. Physical therapy provided by untrained persons, but billed as "physical therapy" "burns" these dollars at this lesser level of skill. Effectiveness of physical therapy modalities is highly dependent upon proper application. If they are applied improperly, most will be ineffective at best and harmful at worst.

2. When improperly applied, modalities and therapeutic exercises done in "physical therapy" have potential to do harm. Ultrasound alternatively may not penetrate at all (becoming totally ineffective) if the soundhead is not properly held to the skin--or- if proper procedure is not followed for intensity, duration and movement of the soundhead, the ultrasound may quickly burn deep structures, causing harm to the patient. Therapeutic exercises are prescribed after a thorough evaluation by the physical therapist and are designed to stretch and strengthen damaged tissues without causing additional damage. Untrained persons attempting to do this may again cause harm, further damage and add to cost of recovery.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Dear Mr. McClellan,

I ask you to support the CMS's proposal in the rule that establish these standards for personnel providing physical therapy services in physicians' offices.

I am a Physical Therapist working in Montana. My training includes a Master's in Physical Therapy, Bachelor's degree in Health Sciences. I have practiced for 12 years. I am dedicated to my profession attending an average 30-40 hours of continuing education program hours per year. I lead a Research review group 4x/year with my Physical Therapy colleagues. I am currently completing criteria for a National Manual Therapy and Outcomes Data Collection Certification.

My practice is in outpatient orthopedic injuries. I frequently treat patients who have been treated by other "hands on practitioners,"(not physical therapists) who performed techniques such as massage. A frequent comment from clients is on how much more thorough my examine is, or that they were only examined through massage. Clients note that I focus on their recovery of function and ability to return to all work and home activities, whereas others have focused on the initial comfort of treatments only.

The complexity of research available to support or dispel multiple treatments continues to rapidly expand. Physical Therapists are educated, trained, and continually further trained to address this research and incorporate it into today's treatments.

I ask you to support the CMS's proposal in the rule that establish these standards for personnel providing physical therapy services in physicians' offices.

Sincerely,

Physical Therapist

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file

Joanne R. Scandura  
3168 W. Marconi Ave.  
Phoenix, AZ 85053

September 19, 2004  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Joanne R. Scandura, ATC/L  
 3168 W. Marconi Ave.  
 Phoenix, AZ 85053

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Recently, the APTA had outlandish comments to CMS regarding athletic trainers. They said, "It has been a long-standing concern of APTA that personnel who are unlicensed and have not graduated from an accredited PT professional program furnish services in physicians' offices and those services are billed as therapy services under the Medicare program. Under current policy it is possible for a high school student or another individual with no training in anatomy, physiology, neuromuscular reeducation or other techniques to furnish services in a physician's office without the physician actually observing the provision of these services."

The profession of athletic training is just as qualified to treat patients. Athletic trainers are certified professionals recognized by CAAHEP and are well educated in the fields of anatomy, physiology, neuromuscular reeducation, and many other techniques that even a physical therapist may not be trained in. In my experience, athletic trainers, physical therapists, and physicians have worked well together to give the finest care possible to patients. This proposed change of not allowing athletic trainers to treat Medicare patients is a bad idea for patients and physicians.

Attachment # 2057  
Aaron Newing, MA, ATC, CSCS  
Assistant Athletic Trainer  
California Lutheran University  
60 West Olsen Road  
Thousand Oaks, CA 91360

9/19/04

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may

provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Aaron Newing

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments****GENERAL**

## GENERAL

Dear Dr. McClellan,

I am president of the Dakota Oncology Society representing the medical and radiation oncologists of North and South Dakota. We are extremely concerned about proposed changes to reimbursement policies for 2005 because of the dramatic impact it will have on our patients as well as our practices. You may not be aware of the unique aspects of rural oncology practices. Most of our patients have to travel significant distances to reach oncologic services. There are only a small number of specialists, clinics, and hospitals with sufficient expertise and manpower to serve our geographically vast and dispersed population. Reimbursement provisions seem to favor high volume centers who may more easily work on a small margin. This will not work in rural practices of relatively low volume and sparse personnel. We have the same overhead expenses as other practices and even moreso for drug procurement and administration. Yet, the provisions of these rules will make it financially impossible to continue for most.

Our patient access, already difficult due to geography, will be further compromised with the inevitable plans for some of the clinics to close their doors. If shifting cancer therapy to hospitals is envisioned, please understand that specialty physicians, nurses, and pharmacists will not be available in most of these areas. For an ill cancer patient to travel hundreds of miles round trip for chemotherapy to a larger center can be viewed as an severe burden for themselves and their families from a health, financial, and quality of life point of view. Hospitals are already refusing to treat some of these patients due to the losses incurred in reimbursement for many of the drugs and the sophistication of therapies beyond their expertise. This year the practice expense piece has allowed clinics to maintain good care while drug margins are vanishing. I personally know several practices that are considering folding, and physicians who will either move or retire, since they stand to incur large losses with the projected ASP rules. The previous AWP system was not perfect but at least allowed good care, a variety of services, and solvency for all parties.

Perhaps some type of compromise or trial period with the current reimbursement policy could be done before catastrophic changes hurt our patient access. We hope that a crisis can be averted if the true impact is understood. We would hate to see inferior care or even no care be provided because of the closure of facilities or the inability of rural patients to find competent care reasonably close to their homes. They actually may require MORE care in emergency rooms, intensive care, and tranfers to far away centers due to complications-- ADDING COSTS not envisioned in the new rules.

Please reconsider impact of the new MMA provisions on overall oncology access and unforeseen general costs. I know you have heard these points from many sources more influential and powerful than ourselves but please be aware that the impact is not hypothetical in our rural setting. Cancer patients will be asking us both to work together on their behalf.

Thank you,

Ralph Levitt, M.D.  
President, Dakota Oncology Society  
820 4th St. North  
Fargo,ND 58102

Submitter : Mrs. Margaret Niswander Date & Time: 09/20/2004 06:09:22

Organization : Mrs. Margaret Niswander

Category : Individual

**Issue Areas/Comments**

**GENERAL**

GENERAL

Santa Cruz County in the state of California was included as a Locality 99 in the 1967 mapping for Medicare reimbursement policy. This designation is inaccurate in 2004. The proximity of Santa Cruz County to Silicon Valley (Santa Clara County) makes clear the inequity of the reimbursement policy. Our physicians in Santa Cruz County are negatively impacted and as a result the residents are also impacted. The median home price in Santa Cruz County has reached beyond \$600,000 yet a physician cannot afford to live in the county and provide medical services to all given the level of reimbursement designated in the county. Many physicians find the environment in Santa Clara County (and other areas) preferable to Santa Cruz and as such our choices of experienced medical personnel lessens every year.

Please update your mapping to adequately designate Santa Cruz County accurately.

Thank you.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I believe that contract groups must be required to provide claims data directly to the physicians and not just provide access to such data. Access to this data may exist on paper only and Emergency Medicine physicians may be reluctant to request this information because of potential repercussions. If EM physicians are to take an active role in preventing upcoding, access to this data is imperative.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 10-19**

DEFINING THERAPY SERVICES

I believe that only licensed physical therapists and licensed or certified physical therapist assistants working under the supervision of licensed physical therapists should be able to provide physical therapy services and bill for physical therapy services. The education and training of these individuals ensure that every patient is treated safely and well.

THERAPY ASSISTANTS IN PRIVATE PRACTICE

Physical Therapy Assistants receive two years of intensive education and training concerning the safe application of PT techniques. Most also are required to pass state licensing examinations. They should not have to be in the same room as the physical therapist. Due to privacy issues, people should have the right to be treated in a room with a closed door.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please do not pass this misguided policy whereby only a physician can refer INCIDENT TO services to physical therapist. This policy places yet another needless barrier between a licensed health care provider, working within the prediscrined scope of their professional practice, and the people they are trained to treat. All qualified HEALTH CARE PROVIDERS should be allowed to provide services to patients with a physician's prescription or under their supervision. Thank you.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am in full support of having Physical Therapy performed only by Physical Therapist and Physical Therapsit Assistants in an M.D. office. They are the only ones who are sufficiently trained to provide those services. PT's go to school 4-6 years and PTA's go 2-3 years for their training. The safety of the public is at stake here.It is also not right to have Physical Therapy being billed for by non-P.T providers.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached document



**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
CENTERS FOR MEDICARE AND MEDICAID SERVICES  
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS**

Please note: The attachment cited in this document is not included for one of the following reasons:

1. Improper format.
2. The submitter did not follow through when attaching the document.
3. The submitter had intended to attach more than one, but not all attachments were received.
4. The type of document provided was a password-protected file. CMS was given read-only access to the document.

We cannot provide this electronic attachment to you at this time, but you would like to view any of those that are not posted on this web site, you may call CMS and schedule an appointment at **1-800-743-3951**. Those comments along with its attachment(s), that could not be posted, will be available for your viewing at that time.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

CMS 1429 P directly effects the practice of professionals in my field. The Certified Athletic Trainer is of great value to the athlete especially in my setting- high school. We perform an excellent service to our young people in the athletic setting that includes the immediate care of and rehabilitation of injuries they have sustained. Please let the team physicians decide who can and can not take care of the athletes who are injured. It has always been their choice as to who can give the best care. Leave it in their hands. Thanks.  
Doug Smith, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

MASTECTOMY PRODUCTS SHOULD BE EXCLUDED from the face-to-face prescription requirements. The effects of a mastectomy are permanent. Based on that fact, mastectomy products are necessary through the life of the recipient. Medicare already has parameters in place for the dispensation of these items. These parameters should be sufficient. Face-to-face prescription requirement would place undue burden on all affected Medicare beneficiaries, physicians, suppliers and Medicare as well. The face-to-face prescription requirement will require the recipient the inconvenience of a visit to the physician, the physician's time for the visit, and Medicare's payment for the visit. Therefore face-to-face prescription is not needed, it is an added expense to all of us and an expensive inconvenience to all involved.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

**THERAPY - INCIDENT TO**

There should be no question as to whether physical therapy services should be allowed to be billed by anyone providing them other than a licensed PT or PTA. Many unqualified groups are providing "rehab" using nothing more than internet, mail or short course training. This is a huge and dangerous practice not only to patients but also to Medicare & insurance companies. If this were allowed, I would be better off denouncing my PT degree, advanced masters degree, board certification, CSCS certification and 20 yrs of experience making lots of money and having little to no accountability/liability.

**THERAPY STANDARDS AND REQUIREMENTS**

PTAs are definitely qualified to treat patients without having the PT directly in the room. Changing this would place undue demand on all areas of PT and burden an already burdened system of treating patients with good quality of care, especially in light of the restraints placed by Medicare. I am all in favor of cost and quality control, but I am afraid that if restrictions of good health care providers continues, no one is going to want to treat Medicare patients - what a shame for such a rewarding group of people to work with.

Submitter : Miss. Krystle Craver Date & Time: 09/20/2004 01:09:25

Organization : UNCW Athletic Training

Category : Other

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

September 30, 2004

Krystle Craver  
4631 McClelland Drive #X-201  
Wilmington, NC 28405

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to share my views and express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. As a student Athletic Trainer and future certified Athletic Trainer I feel that it is necessary to voice my concerns on this issue. I have been working in a Physical Therapy clinic for the past month as an ATS. There is currently one ATC that works at this clinic and I see first hand that ATC?s are highly skilled enough to deliver adequate health care to patients in this type of settings. As students we are educated in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Therefore, we are capable and very knowledgeable in the treatment and rehab processes of all patients. Cutting down on their services would place a damper on the system because health care would be losing very important services that the an ATC can provide. As students we are taught everything that is necessary to work in a clinic or under a physician and by taking this away from us it is very degrading because we work so hard at what we do. This decision would place more of a workload on physicians because they would have to start seeing patients that have been referred to ATC?s in the past.

It is very important that our rights as future health care providers be protected. If this proposal were to pass it would place a restriction on the Athletic Training degree because I would only be able to provide health care to certain individuals in a specific setting.

Sincerely,

Krystle Craver

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 10-19**

THERAPY ASSISTANTS IN PRIVATE PRACTICE

I am a Physical Therapist and Athletic Trainer. I feel that the incident to with such tough supervision rules makes it difficult to provide quality therapy close to a person's home in the rural areas. The rules for the hospital outpatient should be be used for all practices. We there for can practice under our practice act in Wisconsin and provide excellent care at a cheaper price in more rural areas. I feel minimal supervision should be used and for Therapist and Physical Therapist Assistance to be able to practice under there License. The quality will be high with a more inexpensive and convenient ways for our patientsto receive therapy. I feel the government with these rules will be increasing expenses and make it very inconvenient for people in small towns to get Physical Therapy close to there homes. I have been practicing Therapy for 27 years now and feel a Physical Therapist Assistant with some experience and with a set up protocol can provide excellent care and not be supervised to tightly. Thanks for your time! Jim Popp PT-LAT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Mastectomy products should be excluded from the face to face prescriptions requirements. The effects of a mastectomy are permanent. Based on the fact, mastectomy products are necessary throughout the life of the mastectomy patient. Medicare already has parameters in place for the dispensation of these products. The parameters should be sufficient. The face to face prescription requirement would place undue burden on all affected Medicare beneficiaries, physicians, suppliers and Medicare as well. The fact to face requirement will require the recipient the inconvenience of a visit to the physician, the physician's time for the visit, and Medicare's payment for the visit.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See Attached file

CMS-1429-P-2071-Attach-1.doc

## Attachment #2071

Sue Stanley-Green  
Athletic Training Program Director  
Florida Southern College  
Lakeland, FL 33801

September 19, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this will eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients, increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program, been utilized by physicians to allow others, under the physicians supervision, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered.
- There have never been any limitations or restrictions placed upon the physician in terms of who they can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under their care, Medicare and private payers have always relied upon the professional judgment of the physician to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide their patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals, it is likely the patient will suffer delays in health care, greater cost and a lack of access to immediate treatment.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens this summer to provide these services to our top athletes. For CMS to even suggest athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This recommendation is a health care access deterrent.

Sincerely,

Sue Stanley-Green, ATC

Submitter : Sarah Bolus Date & Time: 09/20/2004 02:09:23

Organization : Beth Israel Deaconess Medical Center

Category : Physical Therapist

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Dear Dr. McClellan:

Thank you for considering my comments.

Sarah Bolus, PT, DPT

Attachment #2072

January 27, 2005

Mark B. McClellan, MD, PHD  
Administrator  
Centers for Medicare and Medicaid Services  
Attention: CMS-1429-P  
US Department of Health and Human Services  
PO BOX 8012  
Baltimore, MD 21244-8012

Subject: Therapist Incident To; Revisions to Payment Policies Under the Physician Fee Schedule 2005 for Medicare

Dear Dr. McClellan:

I am a physical therapist who practices in both in a hospital and a private, outpatient setting in the Boston, MA area. I am writing this letter to comment on the proposed ruling "Revisions to of your letter Payment Policies Under the Physician Fee Schedule for Calendar Year 2005." In the proposed rule, CMS discusses establishing requirements for individuals who furnish outpatient physical therapy services in physician's offices. CMS proposes that qualifications of individuals providing physical therapy services "incident to" a physician should meet personnel qualifications for physical therapy in 42CFR §484.4, with the exception of licensure

I *strongly* support the ruling that requires that persons who provide physical therapy services in a physician's office have the same qualifications for physical therapy, graduate from an accredited program and be licensed as a physical therapist or physical therapist assistant in the state that they are working. Physical therapists and physical therapist assistants under the supervision of physical therapists are the only practitioners who have the education and training to furnish physical therapy services. Unqualified personnel should NOT be providing physical therapy services.

Although the current law prevents the agency from requiring licensure, it would be the most appropriate standard to achieve its objective. Striving to achieve this objective ensure that those who are practicing physical therapy are competent professionals. As licensed health care providers in every jurisdiction in which they practice, physical therapists are fully accountable for their professional actions.

Physical therapists receive significant training in anatomy and physiology, have a broad understanding of the body and its functions, and have completed comprehensive patient care experience. This background and training enables physical therapists to obtain positive outcomes for individuals with disabilities and other conditions needing rehabilitation. This education and training is particularly important when treating Medicare beneficiaries. The delivery of so-called "physical therapy services" by unqualified personnel is harmful to the patient. Without fully understanding the body, its function and appropriate indications and contraindications for certain therapeutic techniques, you can cause injury to the patient. Take for example a person who has had cancer within hip replacement and is being seen for exercises at the physician's office. As a physical therapist, you know that they should not perform certain motions because of the risk of dislocating their hip. If the person who is helping the patient perform exercises doesn't know which exercises are appropriate, they are putting the patient at risk for dislocating their hip.

Also, a financial limitation on the provision of therapy services (referred to as the therapy cap) is scheduled to become effective January 1, 2006. Under the current Medicare policy, a patient could exceed his/her cap on therapy without ever receiving services from a physical therapist. This will negatively impact patient's outcomes. These patients who have been receiving care from unqualified people are at risk for not improving. So when they are then referred for continued treatment with a licensed professional, there will little to no money left for their treatment.

Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physician to bill "incident to" for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, individuals, who are graduates of accredited professional physical therapist education programs, must perform the services.

I want to thank you for his consideration of my comments.

Sincerely,

Sarah Bolus, PT, DPT  
02445

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am a Physical therapist who is in favor of strict guidelines on the prohibition of unlicensed medical staff performing and billing for P.T. under the M.D. IE: Athletic trainers Jeff Olivo 5486

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please do not pass this provision of CMS 1429P. It will limit a patients right to make their best health care choice. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
CENTERS FOR MEDICARE AND MEDICAID SERVICES  
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS**

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Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Santa Cruz county is currently classified as a rural county for Medicare payments to physicians. This country is now far from rural. Please consider changing the status of the county.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

September 20, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
PO Box 8012  
Baltimore, MD 21244-8012

Re: Therapy-Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of 'incident-to' services in physician offices and clinics. Consumers deserve a choice to whom is providing their health care. Physicians should be determining which health care provider is better suited to provide rehabilitation for their patients.

Each of these equally qualified medical professionals deserves 'equal footing' in terms of reimbursement for the rehabilitation codes. In today's world of rehab, consumers are exposed to and cared for by certified athletic trainers in physicians offices, rehabilitation companies, and industrial settings. If adopted, this would eliminate the ability of qualified health care professionals to provide these important 'incident-to' services.

Why now, is this proposal questioning the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service? Physicians continue to make decisions in the best interests of the patients. It is IMPERATIVE that Medicare and private payers continue to support physicians in these endeavors and not impose any limitations or restrictions as to who the physician can utilize to provide ANY 'incident-to' service.

CMS is surely receiving comments from Physical Therapists and Physical Therapist Assistants regarding this proposal. The APTA strongly opposes the use of 'UNQUALIFIED PERSONNAL' to provide services described and billed as physical therapy services. These individuals will speak of the 'negative impact' that will be created by allowing unqualified individuals to provide services that are billed as physical therapy services in physician's offices. I could not agree more! Unqualified individuals should not be providing any medical service.

What those individuals will not tell CMS is this:

' All certified or licensed athletic trainers MUST have a bachelor's or master's degree from an accredited college or university.

' Core coursework for an ATC includes:

Human physiology and anatomy

Kinesiology/biomechanics

Nutrition

Acute care of injury and illness

Exercise physiology

Stats and research design

' 70% of all ATCs have a master's degree or higher.

' The services and education of ATCs are comparable to other health care professionals including PTs, OTs, RNs, speech therapists, and many other mid-level health care practitioners.

' A Physical Therapy Assistant has 2-4 years less educational experience compared to an ATC, yet a PTA has a legislative right to be reimbursed for services. Why is this so?

Allowing only PT,OT, speech therapist to provide ?incident-to? outpatient therapy services would improperly provide these groups EXCLUSIVE rights to Medicare reimbursement and DENY the consumer access to quality health care professionals affecting the quality of health care being provided and possibly the costs.

In proposing this change, CMS offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care deterrent. Respectfully,

Scott P. Kimbel ATC  
Head Athletic Trainer  
Ephrata Senior High School  
Ephrata, PA 17522

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

SEE ATTACHED LETTER

9/20/04

TO: CMS

FROM: JOHN P SALVO, MD  
ASSISTANT DIRECTOR, SPORTS MEDICINE  
COOPER BONE & JOINT INSTITUTE  
6117 CENTENNIAL BLVD  
VOORHEES, NJ 08043

RE: CMS 1429-P

**TO WHOM IT MAY CONCERN:**

This letter is regarding CMS-1429-P - Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005, ISSUES 20-29. As I understand it, with this proposal, Medicare Part B would NO LONGER reimburse for 'Therapy-Incident to' charges, performed in the office, when that care is provided by any health care worker except a physical therapist or occupational therapist. This would eliminate 'therapy-incident to' charges for other health care workers, such as athletic trainers-certified (ATC). As a physician, I find it disturbing that the federal government wants to regulate who is best to provide therapy services for patients. I would think that the physician treating the patient would be the best one to make that decision. By limiting this access to physical therapists and occupational therapists, you are doing the patients a disservice. You are once again taking the decision-making ability away from the physicians and effectively tying our hands. The ones who will pay in the end are the patients.

ATC's provide a great service to patients and to the community at large. In our community, many practices could not function without ATC's and the services that they provide on a daily basis with skill, education, and expertise. This is not to mention the services that many ATC's provide to our regional and private high schools, as well as many community clubs and organizations. They are trained in injury evaluation AND treatment, unlike physical therapists. Athletic trainers' education and scope of practice ensure they are expert providers of outpatient therapy services. It is a function they perform many times each day. To say an athletic trainer can't walk across the street from the collegiate athletic training room to the physician's office to administer the same therapy treatment to an older patient who has sprained an ankle jogging or walking the athletic trainer just provided to a track athlete just doesn't make sense.

I urge you to shelve this proposal. Limiting 'therapy-incident to' charges to physical therapists and occupational therapists will limit the options that physicians have for the proper treatment of their patients. Once again, the ones that will pay in the end if your proposal goes through are the patients. Don't let this happen.

John P Salvo, MD



Attachment #2078  
9/20/04

TO: CMS

FROM: JOHN P SALVO, MD  
ASSISTANT DIRECTOR, SPORTS MEDICINE  
COOPER BONE & JOINT INSTITUTE  
6117 CENTENNIAL BLVD  
VOORHEES, NJ 08043

RE: CMS 1429-P

TO WHOM IT MAY CONCERN:

This letter is regarding **CMS-1429-P - Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005, ISSUES 20-29**. As I understand it, with this proposal, Medicare Part B would **NO LONGER** reimburse for 'Therapy-Incident to' charges, performed in the office, when that care is provided by any health care worker except a physical therapist or occupational therapist. This would eliminate "therapy-incident to" charges for other health care workers, such as athletic trainers-certified (ATC). As a physician, I find it disturbing that the federal government wants to regulate who is best to provide therapy services for patients. I would think that the physician treating the patient would be the best one to make that decision. By limiting this access to physical therapists and occupational therapists, you are doing the patients a disservice. You are once again taking the decision-making ability away from the physicians and effectively tying our hands. The ones who will pay in the end are the patients.

ATC's provide a great service to patients and to the community at large. In our community, many practices could not function without ATC's and the services that they provide on a daily basis with skill, education, and expertise. This is not to mention the services that many ATC's provide to our regional and private high schools, as well as many community clubs and organizations. They are trained in injury evaluation AND treatment, unlike physical therapists. Athletic trainers' education and scope of practice ensure they are expert providers of outpatient therapy services. It is a function they perform many times each day. To say an athletic trainer can't walk across the street from the collegiate athletic training room to the physician's office to administer the same therapy treatment to an older patient who has sprained an ankle jogging or walking the athletic trainer just provided to a track athlete just doesn't make sense.

I urge you to shelf this proposal. Limiting "therapy-incident to" charges to physical therapists and occupational therapists will limit the options that physicians have for the proper treatment of their patients. Once again, the ones that will pay in the end if your proposal goes through are the patients. Don't let this happen.

John P Salvo, MD

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

It is essential that health care benefit coverage be provided to patients with cancer. The cancer rates in America are exorbitant and not providing coverage presents an undue burden to citizens and taxpayers. Please consider these comments when devising amendments to the current bill.  
Thank you.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Massage therapy is a growing industry because the medical field finally recognizes the importance of healthy soft tissue. Without healthy soft tissue, you won't have healthy bone structure (as muscles are attached to bones and if the muscle pulls on the bone when it contracts, it pulls those bones out of alignment.) Most Chiropractors/Doctors do not have the time to try and manipulate the soft tissue to get it to loosen up and release the bone back into position and rely heavily upon the massage industry. Please allow those covered by medicare to receive the full help they need and not just a portion. "An ounce of prevention is worth a pound of cure."

Submitter :  Date & Time:

Organization :

Category :

Issue Areas/Comments

**GENERAL**

GENERAL

September 2004

Center for Medicare & Medicaid Services  
Department of Health & Human Services  
Attention CMS 1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

CMS Code 1429-P

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

I object to the Proposed Geographic Practice Cost Indices for 2005 because they fail to correct proven inadequacies in reimbursements to localities currently categorized as "Locality 99" that exceed the 5 percent threshold (the "105% rule") over the national 1.000 average. Specifically, the new GPCIs exacerbate reimbursement deficiencies for the California counties of Santa Cruz, Sonoma, Monterey, San Diego, Sacramento, Santa Barbara and El Dorado.

In particular, the county of Santa Cruz, when broken out from Locality 99, would otherwise reflect a 1.125 percent GAF - higher than the California Localities 17 (Ventura), 18 (Los Angeles) and 26 (Orange). The boundary payment difference between Santa Cruz County and its neighboring county of Santa Clara (Locality 9) is a whopping 25.1 percent. Such statistics demonstrate the fallacy of the GPCI formula and demand CMS develop either exceptions to the current rules that would correct for the Santa Cruz situation or refine the formula to more accurately reflect the true cost of medical practitioners. Not to do so perpetuates an inherently unfair and discriminatory formula.

In its August 5 notice, CMS states that on the issue of payment localities "[a]ny policy that we would propose would have to apply to all States and payment localities." Such an effort is commendable and bespeaks a desire to be fair to all physicians across the nation. However, the reality is that the governing statute does not prohibit individual State fixes or individual county or locality fixes. The CMS is not constrained by law from developing a strategy - with or without the concurrence of the state medical association - to correct the discrepancies in the reimbursement levels to California counties and I request that it do so as part of this rulemaking process.

CMS cannot postpone a solution this year as it did last year. Failure to address the GPCI/locality issue in California only grows the problems and will make fixing it all the more difficult in the future. Further, it threatens to undermine medical care to Medicare beneficiaries. Evidence from the local medical society shows an increasing trend toward doctors refusing to accept new Medicare patients. Many doctors are simply leaving the county to practice elsewhere, depleting the county of its medical resources. To implement the August 5 proposed rules would be counterproductive to CMS' mission to make Medicare benefits affordable and accessible to America's seniors.

I object to the Proposed Geographic Practice Cost Indices for 2005 as printed in the Federal Register of August 5, 2004. I request that CMS define

a method in which it can revise the GPCIs for those California counties - especially Santa Cruz - that exceed 5 percent of the national average and begin reimbursing doctors in those counties more appropriate to their true costs.

Sincerely,

Edward Menges

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am an athletic training student, and I do not think it is fair that the Medicare program wants to revise the payment policies. This will effect myself that the rest of the Atheltic training students in the long run, and I seriously think you should look at all the people this would be effecting in the future. Thank You

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

September 20, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
PO Box 8012  
Baltimore, MD 21244-8012

Re: Therapy-Incident To

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Each of these equally qualified medical professionals deserves equal footing in terms of reimbursement for the rehabilitation codes. In today's world of rehab, consumers are exposed to and cared for by certified athletic trainers in physicians offices, rehabilitation companies, and industrial settings. If adopted, this would eliminate the ability of qualified health care professionals to provide these important incident-to services.

Why now, is this proposal questioning the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service? Physicians continue to make decisions in the best interests of the patients. It is IMPERATIVE that Medicare and private payers continue to support physicians in these endeavors and not impose any limitations or restrictions as to who the physician can utilize to provide ANY incident-to service.

CMS is surely receiving comments from Physical Therapists and Physical Therapist Assistants regarding this proposal. The APTA strongly opposes the use of UNQUALIFIED PERSONNEL to provide services described and billed as physical therapy services. These individuals will speak of the negative impact that will be created by allowing unqualified individuals to provide services that are billed as physical therapy services in physician's offices. I could not agree more! Unqualified individuals should not be providing any medical service.

What those individuals will not tell CMS is this:

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Kinesiology/biomechanics

Nutrition

Acute care of injury and illness

Exercise physiology

Stats and research design

70% of all ATCs have a masters degree or higher.

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A Physical Therapy Assistant has 2-4 years less educational experience compared to an ATC, yet a PTA has a legislative right to be reimbursed for services. Why is this so?

Allowing only PT,OT, speech therapist to provide incident-to outpatient therapy services would improperly provide these groups EXCLUSIVE rights to Medicare reimbursement and DENY the consumer access to quality health care professionals affecting the quality of health care being provided and possibly the costs.

In proposing this change, CMS offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care deterrent.

Respectfully,

Kelly Why, MBA, ATC  
14 Drummers Lane  
Wayne, PA 19087

Submitter : Mrs. Lisa Bennett Date & Time: 09/20/2004 03:09:13

Organization : National Athletic Trainers Association

Category : Individual

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file.

Attachment #2084

Lisa Bennett, MA, ATC  
3671 Z Street  
Washougal WA 98671

September 20, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am concerned about the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase costs and burden an already overloaded health care system.

As the decision-making process continues, please consider:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

The changes proposed are not necessary or advantageous for CMS. This CMS recommendation is a health care access deterrent.

Sincerely,

Lisa Bennett, MA, ATC

3671 Z Street

Washougal WA 98671

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Dear Dr. McClellan:

I appreciate the opportunity to comment on the August 5, 2004 proposed rule on Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005, Therapy - Incident to services. I am a physical therapist who has been in practice for over 25 years. I have practiced in a variety of settings, but most recently am practicing in a large health system that provides both inpatient and outpatient physical therapy services.

In the proposed rule, CMS discusses establishing requirements for those individuals who furnish outpatient physical therapy services in physician's offices. CMS proposed that individuals who provide physical therapy services `incident-to' a physician should meet qualifications and educational requirements for physical therapy except licensure.

I am in strong support of CMS's proposed requirement that physical therapists that are working in physician's offices be graduates from an accredited professional physical therapy program. It would be additionally effective if CMS included that all individuals providing physical therapy services be licensed by the state in which they practice. By requiring this, CMS would be providing an additional level of safety for their Medicare beneficiaries.

Physical therapists and physical therapist assistants under the supervision of physical therapists are the only practitioners who have the education, training, and knowledge to provide physical therapy services. Physical therapists are professionally educated in college or university programs that are accredited by the Commission on Accreditation of Physical Therapy. As of January 2002, all programs offer at least a master's degree with the majority of the programs now offering the doctor of physical therapy degree (DPT). In addition, physical therapists must be licensed in the state in which they practice and are fully accountable for their professional actions.

The training that physical therapists receive enables them to obtain positive outcomes for individuals with disabilities and other conditions needing rehabilitation. Physical therapists receive extensive training in anatomy and physiology and are required to have extensive patient care clinical experience.

Allowing an unqualified individual to deliver `physical therapy' can be extremely harmful to the patient. Patients could suffer additional disability at the hands of an untrained provider. In our clinic, we have seen patients whose recovery has been prolonged because of untrained individuals who state that they are providing `physical therapy'. Physical therapists are the only professionals who provide physical therapy examinations, evaluations, diagnoses, prognoses, and interventions. Physical therapist assistants under the direction and supervision of physical therapists are the only ones who assist in the provision of physical therapy interventions. Patients should receive physical therapy services that meet the highest professional standards. The delivery of physical therapy services by unqualified personnel will inhibit the patient's ability to reach his/her maximum level of function.

In closing, I strongly support the proposed rule that requires that physical therapists working in physician's offices be graduates of accredited professional physical therapy programs. I feel that this proposed rule would help protect the public and help patients receive the most appropriate clinical outcomes.

Thank you for your consideration of my comments.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

**THERAPY - INCIDENT TO**

I do feel that only PT's and OT's should be able to evaluate and treat patients using/billing PT CPT codes. Even being an ATC and having that knowledge base - I feel strongly that the current loophole needs to be closed - and I have even lobbied several insurers to close it.

Here is the reality of what is going on out there since it has not been defined who can bill out incident to under a doc's supervision. Right now in Youngstown, for example - there is a chiropractor going around to doctors offering to 'put a chiropractic assistant' into their offices and that the DC asst. will work under telephonic supervision of the chiropractor. These docs feel that they now can bill out ultrasound, estim, exercise, etc. and all they pay is a fee per visit to the chiropractor for that 'management/supervision' of the chiropractic assistant. There is no PT involved anywhere and the chiro asst (6 mos of training) makes about \$10/hour. That is very scary to me. With the physician on site they are allowed to bill anything and the doc (most who know nothing about rehab) are feeling confident in the skills of the chiropractic assistant. Very scary - a huge cause for rehab dollars to be abused.

This is a slap in the face to doctors who also provide PT services in their offices, but do it under carefully audited and closely managed, therapist intensive supervision.

Also - there is an ortho group in NE Ohio that couldn't find a PT (since there is such a shortage) and didn't want to constantly be replacing/looking for PT's so they just filled their 'Therapy' practice with ATC's for \$11-12/hour and they are billing out a complete department. How can we possibly say that they are getting the same quality of rehab as those under therapist (PT or OT) plans? We can't.

This abuse is what this new CMS legislation is aiming to prevent. Practices like the two listed above would not be able to compete with legitimate PT practices saying that they 'provide in house therapy services', when they are really cutting so many corners.

Medicare dollars are being spent on 'maintenance chiropractic' sessions and 'ATC run' rehab without PT involvement which I feel is wrong. If they can re-word the legislation that would make chiropractors bill under different CPT codes than PT's and they would only allow ATC's to bill a few Athletic Rehab type codes, I might be willing to re-consider, but I feel that if a physician is going to bill a PT CPT code, the evaluation needs to be performed by a PT and the treatment needs to have PT supervision.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I strongly support the proposed personnel standards for physical therapy services that are provided 'incident to' physician services in the physician's office. Thank You.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
PO Box 8012  
Baltimore, MD 21244-8012

Re: Therapy-Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of 'incident-to' services in physician offices and clinics. Consumers deserve a choice to whom is providing their health care. Physicians should be determining which health care provider is better suited to provide rehabilitation for their patients.

Each of these equally qualified medical professionals deserves 'equal footing' in terms of reimbursement for the rehabilitation codes. In today's world of rehabilitation, consumers are exposed to and cared for by certified athletic trainers in physicians offices, rehabilitation companies, and industrial settings. If adopted, this would eliminate the ability of qualified health care professionals to provide these important 'incident-to' services.

Why now, is this proposal questioning the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service? Physicians continue to make decisions in the best interests of the patients. It is IMPERATIVE that Medicare and private payers continue to support physicians in these endeavors and not impose any limitations or restrictions as to who the physician can utilize to provide ANY 'incident-to' service.

CMS is surely receiving comments from Physical Therapists and Physical Therapist Assistants regarding this proposal. The APTA strongly opposes the use of 'UNQUALIFIED PERSONNAL' to provide services described and billed as physical therapy services. These individuals will speak of the 'negative impact' that will be created by allowing unqualified individuals to provide services that are billed as physical therapy services in physician's offices. I could not agree more! Unqualified individuals should not be providing any medical service.

What those individuals will not tell CMS is this:

'All certified or licensed athletic trainers MUST have a bachelor's or master's degree from an accredited college or university.

'Core coursework for an ATC includes:

- Human physiology and anatomy
- Kinesiology/biomechanics
- Nutrition
- Acute care of injury and illness
- Exercise physiology
- Stats and research design

'70% of all ATCs have a master's degree or higher.

'The services and education of ATCs are comparable to other health care professionals including PTs, OTs, RNs, speech therapists, and many other mid-level health care practitioners.

'A Physical Therapy Assistant has 2-4 years less educational experience compared to an ATC, yet a PTA has a legislative right to be reimbursed

for services. Why is this so?

Allowing only PT,OT, speech therapist to provide ?incident-to? outpatient therapy services would improperly provide these groups EXCLUSIVE rights to Medicare reimbursement and DENY the consumer access to quality health care professionals affecting the quality of health care being provided and possibly the costs.

In proposing this change, CMS offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care deterrent.

Respectfully,

Aja B. Madsen, MA, ATC  
Head Athletic Trainer  
Rosemont College

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see the attached file.

Attachment # 2089



Melanie M. Martin, MS, LATC  
140 Regency Park Drive  
Agawam, MA 01001

September 15, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to

determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow *only* physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. ***By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.***
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Melanie M. Martin, MS, LATC

Submitter : Mrs. Leslie Clodfelter Date & Time: 09/20/2004 03:09:36

Organization : Greencastle Physical Therapy

Category : Physical Therapist

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Regarding "incident to"

I am a physical therapist who has been in private practice for 11 years and I wish to comment on the August 5 proposed rule on revisions to payment policies under the physician fee schedule for Calendar year 2005. I am strongly in favor of CMS's proposed requirement that physical therapists working in physicians offices be graduates of accredited professional physical therapist programs.

Over the years I have seen many patients come to our clinic, still in pain, after having received "physical therapy" from unqualified personnel at local physicians' offices. Often the patients report receiving the same modalities (applied by office staff or a nurse) for several weeks with no change in their symptoms.

Physical therapists and physical therapist assistants under the supervision of physical therapists are the only practioners who have the education and training to furnish physical therapy services. Unqualified non-physical therapist personnel should NOT be providing physical therapy services. The delivery of so-called "physical therapy services" by unqualified personnel is harmful to the patient. It delays time before effective treatment can begin and negatively impacts the patients' outcomes. In addition, due to the financial limitation (therapy cap)under Medicare, a patient could exceed his/her cap on therapy without ever receiving services from a physical therapist.

The delivery of so-called "physical therapy services" by unqualified personnel also reflects poorly on the the profession of physical therapy itself. Physical therapists are professionally educated, most with Master's degrees and many with a Doctorate in Physical Therapy. This background and training enables physical therapists to obtain positive outcomes, using many different modes of treatment, for individuals with disabilities and conditions needing rehabilitation.

Thank you for your consideration.

Leslie Clodfelter, M.S., P.T.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file

Attachment #2091

Ingrid Rockemann ATC/R  
1221 Turkey Run  
Rolla, MO 65401

September 20, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident to” services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the

- patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
  - To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
  - CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
  - CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
  - Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
  - Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
  - These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Ingrid Rockemann ATC/R

Submitter : Mrs. Jacqueline M. Gillespie-Stokland Date & Time: 09/20/2004 04:09:43

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

**GENERAL**

GENERAL

I have been a Certified Athletic Trainer for over 12 years. I currently work for Northwest Community Hospital in Arlington Heights, Illinois in The Outpatient Physical Medicine and Rehabilitation Department. I am one of eight Athletic Trainers who work side by side with our Physical Therapists to provide the BEST care for our patients and use a "team approach". I have strong feelings that patients of ALL ages, who are physically active, should receive the best that BOTH professions have to offer so they achieve their short term and long term goals in a timely manner. I do not believe that Athletic Trainers, based on our education, should be restricted from practicing as we are recognized by the AMA as Allied Health Care Professionals and are licensed by The Department Of Professional Regulations in the state of Illinois where I live and are more than qualified to practice in a clinic setting.

I would urge you to contact Paul Carter at the National Athletic Trainer's Association (NATA) who is the Reimbursement Manager and could answer any questions that you might have about our education, billing for Athletic Training services in a clinical setting and our profession at 1-800-879-6282 x 133 or feel free to contact me at home at 847-658-5225 or at work at 847-618-3550. I believe that patients should not be discriminated against to receive quality health care services and that if I see a patient when they are 64 years old who is active and that if they have their 65th birthday and can no longer be on my schedule because the hospital would not get reimbursed is not in best interest of the patient and this should be changed.

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 10-19**

THErapy ASSISTANTS IN PRIVATE PRACTICE

Our practice strongly supports the CMS's proposed change from "personal" to "direct" supervision for physical therapist assistants in the private practice office. Requiring direct supervision would be consistent with the previous Medicare supervision requirement for assistants that physical therapists in independent practice were required to meet prior to 1999.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

It is vital that physical therapy interventions be represented and reimbursed by licensed Physical Therapists (PT) or PT Assistant under PT supervision. Unfortunately, I have had patients previously seek "phsyical therapy" from nonqualified personnel resulting in inappropriate utilization of services billed as "PT". Only a qualified PT has been trained and possesses the skills to practice "physical therapy".

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I would like to express my concern on this issue. I think it is very important that Physical Therapists, Physical Therapist Assistants and all other certified professionals provide services they are intendend to do. I think for billing purposes, it is important that patients get the proper treatment and charged/billed for those services only provided by that health care professional.

As a student, I will have the proper training and certification once I complete my program and sit for my license exam. It is only proper that we have spent the time to be trained in the area of Physical therapy treatment, that only those who are trained should provide that treatment.

Although a physicaian is highly triained, I think that if he/she is to provide physical therapy treatments, that they do the correct steps in assuring that thier patients be treated by professionals. In the private practice setting, it is important to have a trained staff and charge for services accordingly.

Although all medical staff should be trained and aware of healthcare treatment, it is us who study in a specialized area, know most about the certain treatment. It is in the best interest of the patient that they get the proper treatment. If they are being treated by anyone other then a certified Therapist, they may further their injuries and create new problems. This also puts the other healthcare professionals at risk as well.

It is important that if any patient is receiving physical therapy treatment, it should be by a licensed physical therapist or licensed physical therapist assistant. This is for the protection of the patient as well as the licensed professional.

It is like if you had someone posing as a daycare professional. Would you send your child to that daycare without knowing they had all the required qualifications? Just because they watched some children at one point in thier life doesn't make them a required daycare employee. I know I wouldn't put my children there unless I knew. It falls under the same lines, you wouldn't want to be treated by someone, if they weren't certified. We should not allow this to occur.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

please see attached file

Attachment # 2096  
September 20, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
PO Box 8012  
Baltimore, MD 21244-8012

Re: Therapy-Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of “incident-to” services in physician offices and clinics. Consumers deserve a choice to whom is providing their health care. Physicians should be determining which health care provider is better suited to provide rehabilitation for their patients.

Each of these equally qualified medical professionals deserves “equal footing” in terms of reimbursement for the rehabilitation codes. In today’s world of rehab, consumers are exposed to and cared for by certified athletic trainers in physicians offices, rehabilitation companies, and industrial settings. If adopted, this would eliminate the ability of qualified health care professionals to provide these important “incident-to” services.

Why now, is this proposal questioning the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service? Physicians continue to make decisions in the best interests of the patients. It is **IMPERATIVE** that Medicare and private payers continue to support physicians in these endeavors and not impose any limitations or restrictions as to who the physician can utilize to provide ANY “incident-to” service.

CMS is surely receiving comments from Physical Therapists and Physical Therapist Assistants regarding this proposal. The APTA strongly opposes the use of “**UNQUALIFIED PERSONNAL**” to provide services described and billed as physical therapy services. These individuals will speak of the “negative impact” that will be created by allowing unqualified individuals to provide services that are billed as physical therapy services in physician’s offices. I could not agree more! Unqualified individuals should not be providing any medical service.

What those individuals will not tell CMS is this:

- All certified or licensed athletic trainers **MUST** have a bachelor's or master's degree from an accredited college or university.
- Core coursework for an ATC includes:
  - Human physiology and anatomy
  - Kinesiology/biomechanics
  - Nutrition
  - Acute care of injury and illness
  - Exercise physiology
  - Stats and research design
- 70% of all ATCs have a master's degree or higher.
- The services and education of ATCs are comparable to other health care professionals including PTs, OTs, RNs, speech therapists, and many other mid-level health care practitioners.
- **A Physical Therapy Assistant has 2-4 years less educational experience compared to an ATC, yet a PTA has a legislative right to be reimbursed for services. Why is this so?**

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In proposing this change, CMS offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care deterrent. Respectfully,

Chante Rodenas, MS, ATC/L  
Assistant Athletic Trainer  
La Salle University  
Philadelphia, PA 19141

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I beleive it is inappropriate for anyone other than a trained professional to administer care. No matter what aspect of the medical field you're talking about. You need to know that the person taking care of you is infact trained and highly skilled. You wouldn't want to call an ambulance and have any doubt in your mind that the person responding is more than competent to handle what ever medical emergency is presented. It is VERY important to have faith in the one providing you with care.

In the same idea, you wouldn't want anyone caring for or teaching your children that didn't have the appropriate schooling and background. You can see how this could potentially be diastrous for our young people.

Without the proper schooling, to what standard are we to hold these physical therapy providers? What will be next? "Joe's Drive Thru Physical Therapy"?

We need to stand together and prevent this from occurring. Not only to help save our jobs, but to save our patients from potential injury and loss of faith in the health care field.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I was a patient at Northwest Community Hospital's Outpatient Physical Medicine and Rehab in Arlington Heights, Illinois in 2003 and 2004. I was referred there by an Athletic Trainer after I broke my ankle in three places. I received treatment from an Athletic Trainer and Physical Therapist who worked together and now I can walk, dance and run because of the team approach that they took with me. I think Medicare should take another look at the value that Athletic Trainers have in the clinic setting based on their education because I value their knowledge, experience and professionalism.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Mastectomy products should be excluded from the face-to-face prescription requirements. The results of a mastectomy are forever and permanent. These ladies have been through enough and will always be looking over their shoulder for the cancer to return. The face-to-face requirement would put an undo pressure on the patient, the provider and an already overburdened healthcare system. This requirement would require the patient the inconvenience of a visit to the physician, the physician's time for the visit and Medicare's processing and payment for the visit. This would just be bureaucracy at it's worst.